

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVE.  
HARTFORD, CT 06105-3725

██████████, 2022  
Signature Confirmation

Case # ██████████  
Client ID # ██████████  
Request # 192365

**ADMINISTRATIVE DISQUALIFICATION HEARING**  
**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**REASON FOR HEARING**

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received a request for an Administrative Disqualification Hearing (“ADH”) seeking disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for twelve (12) months from the Department of Social Services (“Department”) Investigations and Recoveries Division (“Investigations Unit”). The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by trafficking SNAP benefits. The Department also seeks to recover overpaid SNAP benefits of \$309.14.

On ██████████, 2022, the OLCRAH mailed the Defendant a Notice of Administrative Hearing (“NoAH”) via United States Postal Service (“USPS”) certified mail informing the Defendant that the Department scheduled an Administrative Disqualification hearing for ██████████, 2022. The NoAH included notification of the Defendant’s rights in these proceedings, the Department’s hearing summary and evidence supporting the Department’s case against the Defendant.

On ██████████, 2022, the OLCRAH mailed the Defendant the Non-Receipt of Administrative Disqualification Hearing Notice (notice was dated ██████████, 2022) with the NoAH and a copy of the entire packet including notification of rights in

these proceedings, the Department's hearing summary and evidence to support the Department's case to the Defendant via first class mail.

On [REDACTED], 2022, the ADH packet sent via certified mail was "returned to sender" by the USPS as "unclaimed".

The ADH packet mailed by first class on [REDACTED], 2022, was not returned by the USPS and is presumed to have been delivered to the Defendant.

On [REDACTED], 2022, OLCRAH conducted the ADH in accordance with section 17b-88 of the Connecticut General Statutes and Title 7 of the Code of Federal Regulations section 273.16, subsection (e).

The Defendant did not appear for the ADH on [REDACTED], 2022.

The following individuals were present at the hearing:

William Carrasquillo, Investigator, Department's Representative  
Jessica Gulianello, Fair Hearing Officer

The hearing record remained open to allow the Department time to submit additional information. Additional documents were received and on [REDACTED], 2022, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Defendant committed an intentional program violation ("IPV") of the SNAP and is subject to a twelve (12) month disqualification penalty under the SNAP.

A secondary issue to be decided is whether the Department's proposal to pursue a SNAP overpayment claim for the period of [REDACTED], 2021, through [REDACTED], 2021, in the amount of \$309.14 is correct.

### **FINDINGS OF FACT**

1. The Defendant is a recipient of SNAP benefits (Hearing Record)
2. As of [REDACTED], 2022, the Defendant had no prior IPV disqualifications in the U.S. (Exhibit 7: EDRs)
3. [REDACTED] is located at [REDACTED] and sells groceries and hot food including prepared/made-to-order sandwiches. Microwaves are available for on-site use but there are no chairs or tables available for customers. (Exhibit 11: FNS General Store Information form)

4. [REDACTED] does not have shopping baskets and/or shopping carts available for customers. (Exhibit 11: FNS General Store Information, Department's Testimony)
5. The most expensive items for sale are [REDACTED] and [REDACTED] both listed at a price of \$6.49. (Exhibit 11: FNS General Store Information form)
6. [REDACTED] does not have an unusual price structure such as ending product prices with (".00") cents and they do not round transaction totals up or down at checkout. (Exhibit 11: FNS General Store Information form)
7. The Defendant conducted the following EBT transactions in SNAP benefits at [REDACTED] located at [REDACTED]:

Date:	Time:	Amount:
[REDACTED]/2021	7:20 pm	\$30.00
[REDACTED]/2021	7:29 pm	\$60.00
[REDACTED]/2021	6:05 pm	\$10.00
[REDACTED]/2021	1:35 pm	\$60.74
[REDACTED]/2021	9:24 pm	\$60.40
[REDACTED]/2021	9:39 am	\$42.00
[REDACTED]/221	7:32 pm	\$22.00
[REDACTED]/2021	11:39 am	\$24.00

The EBT Transaction total was \$309.14 (Exhibit 1: Overpayment/Disqualification letter dated [REDACTED]/22, Exhibit 3: Transaction History, Hearing Record)

8. On [REDACTED], 2021, the United States Department of Agriculture ("USDA"), Food and Nutrition Services ("FNS"), SNAP Program charged [REDACTED] [REDACTED] located at [REDACTED] [REDACTED] [REDACTED] [REDACTED], with trafficking in SNAP based on analysis of their records which reflected EBT transactions that established clear and repetitive patterns of unusual, irregular, and inexplicable activity [REDACTED]. (Ex. 4: USDA letter, [REDACTED]/2021)
9. On [REDACTED], 2021, the USDA, FNS, SNAP division notified [REDACTED] [REDACTED] located at [REDACTED] [REDACTED] [REDACTED] [REDACTED], that trafficking violations occurred at [REDACTED] [REDACTED] and permanently disqualified the [REDACTED] from participating in SNAP. (Ex. 5: USDA letter, [REDACTED]/21)

10. The USDA, FNS provided a list of [REDACTED] to the Department's Division of Quality Assurance to conduct further investigation of possible trafficking in SNAP benefits at [REDACTED] [REDACTED] [REDACTED] after the disqualification of the [REDACTED]. The Defendant's [REDACTED] [REDACTED] appeared on the list. The Department's investigation concluded that Defendant's transactions (as previously listed), were a high dollar amount for that type of store, multiple transactions were conducted in a 24-hour period and most of the transactions were for the same cent whole dollar value ending (".00"). (Hearing Summary, Department's Testimony)
11. On [REDACTED], 2022, the Department sent the Defendant a letter advising that he was being charged with trafficking SNAP benefits, an IPV of the SNAP program. The letter informed the Defendant that the penalty for the first intentional program violation was disqualification from the SNAP program for one year. (Exhibit. 1: Overpayment/Disqualification letter, [REDACTED]/2022)
12. On [REDACTED], 2022, the Department sent the Defendant a Notice of Prehearing Interview advising that he was being charged with trafficking SNAP benefits and that there was a \$309.14 overpayment related to the trafficking. The notice stated that the Defendant should contact the Department's representative by [REDACTED], 2022, if he wanted to discuss the charges and the overpayment. (Exhibit: 2A: W1448-Notice of Prehearing Interview, [REDACTED]/2022)
13. On [REDACTED], 2022, the Department sent the Defendant a W1449: Waiver of Disqualification Hearing notice. The waiver notice informed the Defendant of his right to an Administrative Disqualification hearing, IPV overpayment details and repayment options. (Ex. 2B: W-1449 Waiver of Disqualification Hearing, [REDACTED]/2022)
14. The Defendant did not return the Waiver of Disqualification form. The Defendant did contact the Department on [REDACTED], 2022, again on [REDACTED], 2022, and on or about [REDACTED], 2022, and left voicemail messages. The Department's investigator placed unsuccessful return calls to the Defendant and left voicemail messages requesting he contact the Department to discuss the charges. (Department's Testimony)
15. The Defendant's case has not been referred to the state police, a prosecuting attorney, or the Attorney General for recovery in the court system. (Department's Testimony)
16. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear. (Hearing Record)

## **CONCLUSIONS OF LAW**

1. Section 17b-2(a)(7) of the 2018 Supplement to the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

### **The Department has the authority to administer SNAP.**

2. Section 17b-88 of the Connecticut General Statutes provides that if a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and shall consult with the Division of criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

### **The Department has the authority to recover SNAP.**

3. Title 7 of the Code of Federal Regulations ("CFR") 273.16(a)(1) provides that the State agency shall be responsible for investigating any case of alleged intentional Program violation, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an over issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over issuance by establishing an inadvertent household error claim against the household in accordance with the procedures in § 273.18. The State agency should conduct administrative disqualification hearings in cases in

which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

4. The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
5. UPM § 7050 provides that in the Food Stamp program the Department conducts Administrative Disqualification Hearings in certain instances of alleged intentional recipient error as an alternative to referrals to the court system for prosecution. Individuals, who are determined to have committed an intentional recipient error are subjected to recoupment requirements and, in some cases, are disqualified from the SNAP program for a specified amount of time.
6. UPM § 7050.05(B) provides that the following situations involving alleged intentional recipient errors are referred to the Administrative Disqualification Hearing process at the option of the Department: (1) Those cases involving active and previously active assistance unit members alleged to have committed acts of intentional recipient errors which are not referred to the State Police, to a prosecuting authority or to the Attorney General; (2) Those cases involving active and previously active assistance unit members alleged to have committed acts of intentional recipient errors which are referred to the State Police, to a prosecuting authority, or to the Attorney General and subsequently rejected for prosecution, dismissed, dropped or nulled by the court system.

**The Department has the authority to initiate a SNAP Administrative Disqualification Hearing.**

**The Defendant's case has not been referred to the state police, a prosecuting attorney, or the Attorney General for recovery in the court system.**

7. 7 C.F.R § 271.2 defines trafficking as: The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINS), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; (2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 or title 21, United States Code, for SNAP benefits; (3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount; (4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or (5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food. (6) Attempting to buy, sell, steal or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefits Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by annual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.
8. 7 C.F.R § 273.16(c) provides that Intentional Program Violations shall consist of having intentionally: (1) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (2) committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.

**The Department completed an investigation prompted by a referral from the USDA, FNS and concluded the Defendant's SNAP transactions at [REDACTED] for the period in question to be unusually high for the [REDACTED] type, multiple transactions were completed within a 24-hour period and the majority of the transactions reflected a whole dollar same cent value ending (".00")**

9. 7 C.F.R § 273.16(a)(3) provides that the State agency shall base administrative disqualifications for intentional Program violations on the

determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section or on determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication

10. UPM § 7050.15(A) provides that an individual has the option to waive his or her right to an Administrative Disqualification Hearing.

**The Department correctly notified the Defendant of his right to waive the Administrative Disqualification Hearing.**

**The Defendant did not return the signed waiver to the Department.**

11. C.F.R § 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation in accordance with the requirements outlined in this section.
12. 7 C.F.R § 273.16(e)(6) provides the *criteria for determining intentional Program violation*. The hearing authority shall base the determination of intentional Program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional Program violation as defined in paragraph (c) of this section.
13. UPM § 7050.25(A)(2) provides that an Administrative Disqualification Hearing is a hearing conducted by the Department in which the Department determined whether an AFDC or Food Stamp assistance unit member has caused an overpayment by committing an intentional recipient error.
14. UPM § 7050.25(D)(1) provides that the hearing is conducted by the hearing official in accordance with the Department's Fair Hearings procedures as described in Section 1570.

**The Department presented clear and convincing evidence to support the Department's position that the Defendant committed and intended to commit an IPV.**



**The Defendant was not present at the Administrative Disqualification hearing.**

15.7 C.F.R § 7 CFR 273.16(b) provides that *Disqualification penalties*. (1) Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: (i) For a period of twelve months for the first intentional Program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; (ii) For a period of twenty-four months upon the second occasion of any intentional Program violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and (iii) Permanently for the third occasion of any intentional program violation.

16. UPM § 7005.10(A)(3) provides that if the Department seeks to impose a penalty against the assistance unit, a final determination regarding the nature of a recipient error is made either by a court of jurisdiction or by the Department through the Administrative Disqualification Hearing Process.

17. UPM § 7050.30(B)(2) provides if the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is determined as follows: (1) The length of disqualification is the length specified by the court order if the court specifies a period of disqualification. (2) When the court order does not specify a period of disqualification, the Department determines the length of the disqualification based upon the individual's previous history of intentional recipient error as follows: (a) for the first offense, the length of disqualification is one year.

**The Department confirmed that the Defendant had no prior disqualifications.**

**The Department was correct to seek the disqualification of the Defendant from the SNAP program for a period of one year.**

18. Title 7 CFR § 273.16 (b) (12) provides that even though the individual is disqualified, the household, as defined in § 273.1, is responsible for making restitution for the amount of any overpayment. All intentional Program violation claims must be established and collected in accordance with the procedures set forth in § 273.18.

19.7 CFR § 273.18(a) provides claims against households. (a) *General*. (1) A recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2. (2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations. (3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan. (4) The following are responsible for paying a claim: (i) Each person who was an adult member of the household when the overpayment or trafficking occurred; (ii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

20.7 C.F.R § 273.18(b) Provides *types of claims*. There are three types of claims:

An . . .	is . . .
(1) Intentional Program violation (IPV) claim	any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § <u>273.16</u> .
(2) Inadvertent household error (IHE) claim	any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
(3) Agency error (AE) claim	any claim for an overpayment caused by an action or failure to take action by the State agency.

21.7 C.F.R § 273.18(c)(2) provides calculating the claim amount - *Trafficking-related claims*. Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by: (i) The individual's admission; (ii) Adjudication; or (iii) The documentation that forms the basis for the trafficking determination.

**The Department is correct in seeking recoupment of SNAP benefits of \$309.14 from the Defendant.**

**DISCUSSION**

Established at this hearing is the fact that [REDACTED], where the Defendant conducted the SNAP transactions in question located at [REDACTED], was permanently disqualified from participating in the SNAP program due to trafficking in SNAP benefits. The Defendant completed multiple

transactions [REDACTED] over a 24-hour period. Seven of the eight transactions in question ended in whole dollar, same cent value of “.00”. Three of the eight transactions in question were equal to or exceeded \$60 per transaction. I find \$60 to be a large amount for the type of store that [REDACTED] is as reflected on the General Store Information sheet (provided by FNS) and submitted into the record by the Department following the proceedings.

Given the fact that these questionable transactions occurred in [REDACTED] that has been permanently disqualified for trafficking in SNAP benefits, I find the evidence to be convincing that the Defendant is guilty of an intentional program violation of the SNAP program. The Defendant did not appear at the Administrative Disqualification Hearing or offer any testimony or evidence to dispute the charges.

### **DECISION**

1. The Defendant is **GUILTY** of committing an intentional program violation in the SNAP program for trafficking of SNAP benefits. The Defendant is to be disqualified from the program for a period of one year.
2. With regards to the Department’s request to recover the overpayment of \$30.14, the request is **GRANTED.**

*Jessica Gulianello*

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Jessica Gulianello  
Hearing Officer

CC: [OLCRAH.QA.DSS@ct.gov](mailto:OLCRAH.QA.DSS@ct.gov)  
Jamel Hilliard (SSOM), Randalynn Muzzio (SSOM), RO 60  
William Carrasquillo, DSS Investigator, RO 30

**RIGHT TO APPEAL**

The defendant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106, or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. A copy of the petition must also be served on all parties to the hearing.

The 45-day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or her designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the defendant resides.