

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

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

Case ID # ██████████
Client ID # ██████████
Request #192963

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████ ██████ 2022, the Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of ██████████ (the "Defendant") from participating in the Supplemental Nutrition Assistance Program ("SNAP") program for a period of twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's intentionally misrepresenting her household composition. The Department seeks to recover the overpaid SNAP benefits of \$1,991.00. This is the Defendant's first IPV offense in the SNAP program.

On ██████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the Defendant of the initiation of the ADH process via certified mail. On ██████ 2022, the Defendant signed for the certified letter per United States Postal Service ("USPS") tracking. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for ██████, 2022.

On ██████, 2022, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Disqualification Hearing. The Defendant was not present at the hearing and did not provide good cause for not appearing.

The following individuals were present at the hearing:

Brittany Velleca, Department's representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an Intentional Program Violation of the SNAP program and is subject to the disqualification from the program for twelve months, and whether the resulting overpayment of benefits is subject to recovery.

FINDINGS OF FACT

1. On [REDACTED], 2018, the Defendant's two minor children entered the Department of Children and Families ("DCF") foster care program. (Exhibit 3: Email from DCF, [REDACTED], 2019)
2. On [REDACTED] 2019, the Defendant submitted an online application for SNAP benefits for a household of three, including herself and her two minor children. The Defendant reported \$0.00 income on the application. (Exhibit 3: Application dated [REDACTED] 2019)
3. On [REDACTED], 2019, the Defendant was issued \$286.00 in SNAP benefits for a household of three. (Exhibit 5: Benefit Issuance Search)
4. On [REDACTED], 2019, the Department sent the Defendant a Notice of Action. The notice stated the Defendant was granted SNAP benefits effective [REDACTED] [REDACTED] 2019, for a household of three. The Defendant was certified through [REDACTED], 2020. The Defendant was issued a SNAP benefit of \$286.00 for [REDACTED] 2019 and \$505.00 effective [REDACTED] 2019. (Exhibit 4: Notice of Action, [REDACTED], 2019)
5. On [REDACTED] 2019, the Defendant was issued \$505.00 in SNAP benefits for a household of three. (Exhibit 5)
6. On [REDACTED] 2019, the Defendant was issued \$505.00 in SNAP benefits for a household of three. (Exhibit 5)
7. On [REDACTED], 2019, the Defendant was issued \$505.00 in SNAP benefits for a household of three. (Exhibit 5)
8. On [REDACTED] 2019, the Defendant was issued \$505.00 in SNAP benefits for a household of three. (Exhibit 5)
9. On [REDACTED] 2019, the Defendant was issued \$509.00 in SNAP benefits for a household of three. (Exhibit 5)

10. [REDACTED] 2019, the Defendant was issued \$509.00 in SNAP benefits for a household of three. (Exhibit 5)
11. On [REDACTED], 2019, the Department became aware that the Defendant's two minor children were no longer residing with her. (Hearing Summary, Department's testimony)
12. On [REDACTED], 2019, the Department determined that the Defendant's two minor children entered DCF foster care on [REDACTED], 2018, and have remained there since that date. (Exhibit 7: Email from DCF, [REDACTED] 2019)
13. The Department alleges that the Defendant was overpaid a total of \$1,991.00 in SNAP benefits. The Department alleges this was an Intentional Program Violation ("IPV") because the Defendant misrepresented her household composition on [REDACTED] 2019. (Hearing Record)
14. The Department calculated the following SNAP overpayments as a result of the Defendant misrepresenting her household composition:

Month	SNAP received (household of three)	SNAP eligible (household of one)	Overpayment
[REDACTED] 2019	\$286.00	\$177.00	\$109.00
[REDACTED] 2019	\$505.00	\$192.00	\$313.00
[REDACTED] 2019	\$505.00	\$192.00	\$313.00
[REDACTED] 2019	\$505.00	\$192.00	\$313.00
[REDACTED] 2019	\$505.00	\$192.00	\$313.00
[REDACTED] 2019	\$509.00	\$194.00	\$315.00
[REDACTED] 2019	\$509.00	\$194.00	\$315.00
			Total \$1991.00

(Hearing Summary, Department's testimony, Ex. 5: Benefit Issuance Search)

15. On [REDACTED] 2022, the Department mailed the Defendant a W-1448, Notice of Prehearing Interview. The notice stated that the Department believes you broke the rules of the SNAP program on purpose because you received benefits for children you did not have custody of and because of that you received \$1991.00 more than you should have in SNAP benefits. The Department scheduled a telephone appointment with the Defendant for [REDACTED], 2022, to discuss the proposed IPV and overpayment. (Exhibit 1: W-1448, Notice of Prehearing Interview)

16. On [REDACTED] 2022, the Department mailed the Defendant a W-1449, Waiver of Disqualification Hearing, SNAP. The notice stated that the Department believes that the Defendant caused an IPV in the SNAP program and will be disqualified from participating for a period of twelve months. The form further stated by signing she gives up the right to an ADH and by not signing the Department will consider administrative action. (Exhibit 2: W-1449, Waiver of Disqualification Hearing)
17. The Department alleges that the Defendant was overpaid a total of \$1,991.00 in SNAP benefits. The Department alleges this was an Intentional Program Violation ("IPV") because the Defendant misrepresented her household composition on [REDACTED] 2019. (Hearing Record)
18. The Defendant did not attend the pre-hearing interview and did not sign the Waiver of Disqualification Hearing. (Hearing Record)
19. The Defendant did not sign and return the waiver of disqualification hearing form. (Department's testimony)
20. The Defendant has no prior Intentional Program Violations. (Hearing Summary, Department's Testimony and Exhibit 6: Electronic Disqualified Recipient System)
21. The issuance of this decision is timely under Title 7 Section 273.16 (e)(2)(iv) of the code of Federal Regulations, which requires that a decision be issued within 90 days of the initiation of the ADH process. On [REDACTED] 2022, the OLCRAH mailed the Defendant notification of the initiation of the ADH process. Therefore, this decision is due not later than [REDACTED], 2022.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.
1. State statute provides as follows:

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 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.

Conn. Gen. Stat. § 17b-8

2. Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.16(a)(1) provides as follows:

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 overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance 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.

“The State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.” 7 C.F.R. § 273.16(e)

3. Federal regulation provides as follows:

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.

7 C.F.R. § 273.16(a)(3)

“Definition of intentional Program violation. Intentional Program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts.”

7 C.F.R. § 273.16(c)(1)

“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.” 7 CFR 273.16(e)(6)

Federal Regulation provides as follows:

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;

7 CFR 273.16(b)(1)(i)

3. Federal Regulation provides as follows:

A household is composed of one of the following individuals or group of individuals; an individual living alone; an individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from others; or a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. § 273.1(a)

Federal Regulation provides as follows:

Special household requirements -

(1) ***Required household combinations.*** The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified. (i) Spouses; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

7 C.F.R. § 273.1(b)(1)

The Department correctly determined that the Defendant was not eligible for SNAP benefits as a household of three for the period of [REDACTED] 2019 through [REDACTED] 2019. The Defendant misrepresented the facts on her [REDACTED] 2019, application that her two minor children were living in her home when in fact they were in foster care by the DCF.

4. Federal regulation provides for the Thrifty Food Plan (TFP) and Maximum SNAP Allotments:

Maximum SNAP allotment level. Maximum SNAP allotments shall be based on the TFP as defined in §271.2, and they shall be uniform by

household size throughout the 48 contiguous States and the District of Columbia. The TFP for Hawaii shall be the TFP for the 48 States and DC adjusted for the price of food in Honolulu. The TFPs for urban, rural I, and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I, and rural II Alaska as defined in §272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the cost of these TFPs may not exceed the cost of the highest TFP for the 50 States. The TFP amounts and maximum allotments in each area are adjusted annually and will be prescribed in a table posted on the FNS web site, at www.fns.usda.gov/fsp.

7 CFR § 273.10(e)(4)(i)

United States Department of Agriculture Food and Nutrition Services provides as follows:

Effective [REDACTED] 2018, through [REDACTED], 2019, the maximum monthly SNAP allotment for the 48 States & District of Columbia for a household of one equaled \$192.00. The minimum SNAP allotment equaled \$15.00. (United States Department of Agriculture, Food and Nutrition Service, Fiscal Year (FY) 2019 Standard Deductions, www.fns.usda.gov/snap, Memorandum SNAP – Fiscal Year 2019 Cost-of-Living Adjustments, [REDACTED] 2018)

Effective [REDACTED] 2019, through [REDACTED] 2020, the maximum monthly SNAP allotment for the 48 States & District of Columbia for a household one equaled \$194.00. The minimum SNAP allotment equaled \$16.00. (United States Department of Agriculture, Food and Nutrition Service, Fiscal Year (FY) 2018 Standard Deductions, www.fns.usda.gov/snap, Memorandum SNAP – Fiscal Year 2018 Cost-of-Living Adjustments, [REDACTED] 2019)

Federal Regulation provides as follows:

A household's benefit level for the initial months of certification shall be based on the day of the month it applies for benefits and the household shall receive benefits from the date of application to the end of the month unless the applicant household consists of residents of a public institution. For households which apply for SSI prior to their release from a public institution in accordance with [§ 273.11\(i\)](#), the benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release from the institution to the end of the month. As used in this section, the term “initial month” means

the first month for which the household is certified for participation in SNAP following any period during which the household was not certified for participation, except for migrant and seasonal farmworker households. In the case of migrant and seasonal farmworker households, the term “initial month” means the first month for which the household is certified for participation in SNAP following any period of more than 1 month during which the household was not certified for participation. Recertification shall be processed in accordance with [§ 273.10\(a\)\(2\)](#). The State agency shall prorate a household's benefits according to one of the two following options:

7 CFR 273.10(a)(1)(ii)

“The State agency shall use a standard 30-day calendar or fiscal month. A household applying on the 31st of a month will be treated as though it applied on the 30th of the month.” 7 CFR 273.10(a)(1)(ii)(A)

“For State agencies which use a standard 30-day calendar or fiscal month the formula is as follows, keeping in mind that the date of application for someone applying on the 31st of a month is the 30th”
7 CFR 273.10(a)(1)(iii)(A)

“If after using the appropriate formula the result ends in 1 through 99 cents, the State agency shall round the product down to the nearest lower whole dollar. If the computation results in an allotment of less than \$10, then no issuance shall be made for the initial month.”
7 CFR 273.10(a)(1)(iii)(C)

1. Federal regulation provides as follows:

If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individual shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16.

7 C.F.R. § 273.12(d)

“A recipient claim is an amount owed because of benefits that are overpaid.” 7 C.F.R. § 273.18(a)(1)(i)

“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.” 7 C.F.R. § 273.18(a)(2)

“*Type of claim:* There are three types of claims: An Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16”. 7 C.F.R. § 273.18(b)(1)

5. Federal regulation provides as follows:

Calculating the claim amount-Claims not related to trafficking. As a State agency, you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment and for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don’t include any amounts that occurred more than six years before you became aware of the overpayment.

7 C.F.R. § 273.18(c)(1)(i)

“Even though only 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](#).” 7 CFR 273.16(b)(12)

The Department correctly determined the Defendant eligible for SNAP benefits for a household of one for the period of [REDACTED], 2019, through [REDACTED], 2019, as follows:

For the months of [REDACTED] 2019 through [REDACTED] 2019, the Department correctly determined the Defendant eligible for the \$192.00 maximum SNAP benefit for a household of one.

For the months of [REDACTED] 2019 and [REDACTED] 2019, the Department correctly determined the Defendant eligible for the \$194.00 maximum SNAP benefit for a household of one.

The Department correctly determined the Defendant eligible for a prorated benefit for [REDACTED] 2019 based on the date she applied, [REDACTED]. The Department incorrectly determined a benefit of \$177.00. The correct benefit for [REDACTED] 2019 is \$108.00 (31-14[date of

application] divided by 30 = 0.56 x 192 max benefit = \$108.00 (2019 benefit).

The Department incorrectly determined the total overpayment claim as \$1,991.00 for the period [REDACTED], 2019, through [REDACTED] 2019. The correct total overpayment claim is \$2060.00 as illustrated below:

Month	Received	Entitled	Overpayment	Subject to Recoupment
[REDACTED] 2019	\$286.00	\$108.00	\$178.00	\$178.00
[REDACTED] 2019	\$505.00	\$192.00	\$313.00	\$313.00
[REDACTED] 2019	\$505.00	\$192.00	\$313.00	\$313.00
[REDACTED] 2020	\$505.00	\$192.00	\$313.00	\$313.00
[REDACTED] 2020	\$505.00	\$192.00	\$313.00	\$313.00
[REDACTED] 2020	\$509.00	\$194.00	\$315.00	\$315.00
[REDACTED] 2020	\$509.00	\$194.00	\$315.00	\$315.00
Totals	\$1,177.00	\$16.00	\$2060.00	\$2060.00

The Hearing Record clearly and convincingly established that the Defendant intentionally made misstatements and misrepresented her household composition to the Department.

The Defendant's intentional misstatement and failure to correctly report her household composition to the Department constitutes a first offense intentional program violation.

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

The Department is correct in seeking recoupment of SNAP benefits from the Defendant. However, the Department must correct the amount of the overpayment.

DISCUSSION

The Department met its burden to establish by clear and convincing evidence that the Defendant committed an intentional program violation pertaining to the SNAP.

DECISION

The Defendant is guilty of committing a first offense intentional program violation in the SNAP program as the Defendant knowingly

misrepresented the facts on her [REDACTED] 2019, SNAP application, that her two minor children were living under her care when they were in the care of DCF. The Department's request is Granted. The Department may disqualify the Defendant from participating in the SNAP for a period of 12 months.

Regarding whether the Department's proposal to pursue an overpayment claim under the SNAP for the period of [REDACTED], 2019, through [REDACTED] [REDACTED] 2019, the Department's appeal is granted. However, the Department miscalculated the claim amount as \$1,991.00. The correct amount of the claim equals \$2060.00.

ORDER

1. The Department must recalculate the Defendant's SNAP eligibility and subsequent overpayment claim for the month of [REDACTED] 2019. The Defendant applied on the [REDACTED] of [REDACTED] and was eligible for a prorated benefit of \$108.00 for [REDACTED] 2019 which caused an increase in the amount subject to recoupment for [REDACTED] 2019 of \$178.00 as outlined in this decision.
2. Compliance is due 10-days from the date of this decision.

Scott Zuckerman
Scott Zuckerman
Hearing Officer

cc: OLCRAH.QA.DSS@ct.gov

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.