

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

Client ID # ██████████
Case ID ██████████
Request # 194701

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
██████████

REASON FOR HEARING

On ██████ ██████ 2022, the Department of Social Services made a request for an Administrative Disqualification Hearing (“ADH”) to seek disqualification of ██████████ ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by failing to report household income. The Department also seeks to recover overpaid SNAP benefits of \$930.00.

On ██████ ██████ 2022, the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) mailed the Defendant notification of the initiation of the ADH process (“ADH notice”) scheduled for ██████ ██████ 2022, which included notification of the Defendant’s rights in these proceedings via certified mail.

On ██████ ██████ 2022, the United States Postal Service (“USPS”) delivered the ADH notice to the Defendant’s address as confirmed via USPS online tracking of certified mail.

On ██████ ██████ 2022, the Defendant requested a continuance which OLCRAH granted.

On [REDACTED] [REDACTED] 2022, the OLCRAH reissued the ADH notice to the Defendant scheduling the ADH for [REDACTED] [REDACTED] 2022 via certified mail.

On [REDACTED] [REDACTED] 2022, the USPS delivered the ADH notice to the Defendant's address as confirmed via USPS online tracking of certified mail and signed USPS domestic return receipt.

On [REDACTED] [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 subsections (a) and (e).

PRESENT AT THE HEARING

[REDACTED] [REDACTED] Defendant
Sally Stanley, Department Representative
Lisa Nyren, Fair Hearing Officer

The hearing record remained open for the submission of additional evidence from the Department. On [REDACTED] [REDACTED] 2022, the Fair Hearing Officer received additional evidence from the Department. On [REDACTED] [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 regulations and subject to a twelve (12) month disqualification penalty under the SNAP.

A secondary issue to be decided is whether the Department's proposal to recoup a SNAP overpayment claim totaling \$930.00 for the period [REDACTED] [REDACTED] 2019 through [REDACTED] [REDACTED] 2020 is correct.

FINDINGS OF FACT

1. Between [REDACTED] [REDACTED] 2019 and [REDACTED] [REDACTED] 2019, the Defendant worked part time for [REDACTED] [REDACTED] (the "cafe") earning \$10.50 per hour. (Exhibit 3: Equifax Consumer Employment and Income Report)
2. On [REDACTED] [REDACTED] 2019, the Defendant called the Benefit Center twice to check on the status of his SNAP benefits. Department case notes do not indicate the Defendant reported working for the cafe. (Exhibit 13: Email and Case Notes)

3. On [REDACTED] [REDACTED] 2019, [REDACTED] [REDACTED] 2019, and [REDACTED] [REDACTED] 2019, the Defendant called the Benefit Center to check on status of SNAP benefits. Department case notes do not indicate the Defendant reported working for the cafe. (Exhibit 13: Email and Case Notes)
4. On [REDACTED] [REDACTED] 2019, the Defendant provided proof of last date worked for [REDACTED] [REDACTED] to the Department at the regional office. Department case notes do not indicate the Defendant reported working for the cafe. (Exhibit 13: email and Case Notes)
5. On [REDACTED] [REDACTED] 2019, the Department issued the Defendant a Notice of Action (“NOA”) certifying the Defendant’s period of eligibility under the SNAP as [REDACTED] [REDACTED] 2019 through [REDACTED] [REDACTED] 2020 as long as the Defendant’s situation does not change. The Department listed the Defendant’s wages from [REDACTED] (the “former employer”) as \$250.87 per week. The NOA is void of any income information from the cafe. The Department authorized continued SNAP for a household of one, the Appellant in the amount of \$147.00. The notice lists the SNAP reporting rules as: “report the following changes to us during your SNAP period of eligibility: 1. If your household’s total monthly gross income is more than \$1,316.00. Total monthly gross income is all wages from working and money you get from any other source before taxes and deductions. 2. If you or a member of your household who is subject to time-limited SNAP works fewer than 80 hours in a month or is in an approved employment and training program for fewer than 80 hours in a month.” (Exhibit 11: Notice of Action)
6. The [REDACTED] [REDACTED] 2019 NOA included the following statement: “In [REDACTED] 2019, we will send you a form called the Periodic Report Form (PRF). When you get the PRF, you must fill it out and send it to us by [REDACTED]/[REDACTED]/2019 to keep getting SNAP benefits. We use the information reported on the PRF to confirm or change the amount of your benefits.” (Exhibit 11: Notice of Action)
7. In [REDACTED] 2019, the Defendant terminated employment with the former employer. (Defendant’s Testimony)
8. On [REDACTED] [REDACTED] 2019, the Defendant began working for [REDACTED] [REDACTED]. (the “employer”) earning \$13.00 per hour. (Exhibit 3: Equifax Consumer Employment and Income Report and Defendant’s Testimony)
9. The Defendant earned the following biweekly pays from the employer. (Exhibit 3: Equifax Consumer Employment and Income Report and Exhibit 9: Monthly Gross Wages Worksheet)

Period End Date	Pay Date	Gross Wages
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■/■/19	■/■/19		\$600.05
■/■/19	■/■/19	+	\$864.09
		=	<u>\$1,464.14</u>
Period End Date	Pay Date		Gross Wages
■/■/19	■/■/19		\$989.12
■/■/19	■/■/19	+	\$1,240.37
		=	<u>\$2,229.49</u>
Period End Date	Pay Date		Gross Wages
■/■/19	■/■/19		\$1,117.59
■/■/19	■/■/19	+	\$1,232.92
		=	<u>\$2,350.51</u>
Period End Date	Pay Date		Gross Wages
■/■/19	■/■/19		\$1,212.10
■/■/19	■/■/19	+	\$1,144.96
■/■/19	■/■/19	+	\$1,315.97
		=	<u>\$3,673.03</u>
Period End Date	Pay Date		Gross Wages
■/■/19	■/■/19		\$1,287.96
■/■/19	■/■/19	+	\$1,315.41
		=	<u>\$2,603.37</u>
Period End Date	Pay Date		Gross Wages
■/■/20	■/■/20		\$1,135.72
■/■/20	■/■/20	+	\$943.09
		=	<u>\$2,078.81</u>
Period End Date	Pay Date		Gross Wages
■/■/20	■/■/20		\$927.11
■/■/20	■/■/20	+	\$1,148.86
		=	<u>\$2,075.97</u>
Period End Date	Pay Date		Gross Wages
■/■/20	■/■/20		\$1,200.02
■/■/20	■/■/20	+	\$1,096.09
		=	<u>\$2,296.11</u>

10. On ■■■■■ 2019, the Department issued a Periodic Report Form to the Defendant to complete, sign, and return by ■■■■■ 2019. Instructions on the form state, "You must complete this page, sign, and return all pages in order to continue receiving benefits. Fill the correct bubble below, sign, and return all pages. I read this form and I made no changes. I read this form and I have made changes." The

Department writes, "By signing, I agree that: · I have read this entire form including the section about rights and responsibilities, or have had it read to me in a language that I understand, and that I must comply with these rules; · The information I am giving is true and complete to the best of my knowledge; · I could go to prison or be required to pay fines if I knowingly give wrong or incomplete information; and · DSS and other federal, state, and local officials may verify (check) any information I give." Included on the PRF are the following instructions in bold: "All pages of this form must be returned for the PRF to be considered complete. Only returning the first page will result in delayed benefits." (Exhibit 5: Periodic Report Form)

11. The ██████ 2019 PRF lists the Defendant's earned income type as weekly wages from the former employer of \$250.87 preprinted on the PRF. Under the earned income section, the PRF instructs the Defendant to "describe any changes in earned income below. If anyone in your household has new earned income, tell us what type, employer's name and address, who is working, how often they are paid (weekly, bi-weekly etc.), and the amount. Send proof in the envelope with this form." PRF instructions also include, "if you have changes to report, cross out what is listed and give us the correct information in the space provided." (Exhibit 4: Periodic Report Form and Exhibit 5: Periodic Report Form)
12. On ██████ 2019, the Defendant submitted pages 1 and 2 of the PRF to the Department signed by the Defendant on ██████ 2019. The Defendant checks the statement "I read this form and I made no changes." Pages 3 – 5 were not included. (Exhibit 4: Periodic Report Form and Exhibit 13: Case Notes)
13. On ██████ 2019, the Department reissued the PRF to the Defendant at his request. (Exhibit 13: Case Notes)
14. On ██████ 2019, the Defendant submitted a completed PRF to the Department which he signed on ██████ 2019. The Defendant checked the bubble which states, "I read this form and I made no changes." The PRF is void of any corrections or changes except for the letters "NA" under the statement, "Describe any changes and send in proofs using the enclosed envelope." (Exhibit 5: Periodic Report Form and Exhibit 13: Case Notes)
15. The Defendant failed to list his employment with the employer on the PRF which he signed on ██████ 2019 and failed to cross out the incorrect wage information from the former employer on the PRF. (Exhibit 5: Periodic Report Form)

16. On [REDACTED] [REDACTED] 2020, the Defendant reported employment with the employer to the Department. (Department Representative's Testimony and Exhibit 13: Case Notes)
17. On [REDACTED] [REDACTED] 2021, the Department submitted a referral to the Regional Office Investigation Unit ("investigation unit") to investigate the Defendant's failure to report employment and failure to report income exceeds the SNAP income limit. (Exhibit 1: Report of Suspected IPV Overpayment and Department Representative's Testimony)
18. Under SNAP rules, SNAP recipients must report changes in their household income on the PRF, which includes new employment. (Department Representative's Testimony)
19. Under SNAP rules, SNAP recipients must report to the Department when their household income exceeds 130% of the FPL by the 10th of the month following the month the SNAP recipient's income exceeds the SNAP limit. (Department Representative's Testimony)
20. On [REDACTED] [REDACTED] 2022, the investigation unit determined the Defendant failed to report his employment with the employer on the PRF's signed by the Defendant on [REDACTED] [REDACTED] 2019 and [REDACTED] [REDACTED] 2019 because he failed to include the employer information on the [REDACTED] [REDACTED] 2019 PRF and checked off "I read this form and I made no changes" on both PRF's. Additionally, the investigation unit determined the Defendant failed to report that his monthly gross income from the employer exceeded the SNAP gross income limit of 130% of the federal poverty level ("FPL") by [REDACTED] [REDACTED] 2019, the month after the Defendant's income exceeded the SNAP gross income limit. 130% of the FPL for a household of one equaled \$1,307.00 at time of certification. Refer to chart below which shows the Defendant's gross monthly income from the employer exceeds 130% of the FPL. (Hearing Record)

Month	[REDACTED] 2019	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020				
Gross	\$1,464.14	\$2,229.49	\$2,350.51	\$3,673.03	\$2,603.37	\$2,078.81	\$2,075.97	\$2,296.11
130% FPL	\$1,307.00	\$1,307.00	\$1,307.00	\$1,307.00	\$1,307.00	\$1,307.00	\$1,307.00	\$1,307.00

21. The investigation unit determined the Defendant committed an IPV under the SNAP because he failed to report employment on the PRF's signed by the Defendant on [REDACTED] [REDACTED] 2019 and [REDACTED] [REDACTED] 2019 and failed to report his household income exceeded 130% of the FPL by [REDACTED] [REDACTED] 2019, the 10th day after his household income exceeded the SNAP gross income limit. The Defendant's household income continued to exceed the SNAP gross income limit of \$1,307.00. Refer to Finding of Facts ("FOF") # 9 and 20. (Hearing Record)

22. The Defendant received the following SNAP benefits for the period [REDACTED] 2019 through [REDACTED] 2020 as listed in the chart below. (Exhibit 7: Benefit Issuance Search)

Issuance Month	Amount Received
[REDACTED] 2019	\$155.00
[REDACTED] 2019	\$155.00
[REDACTED] 2019	\$155.00
[REDACTED] 2020	\$155.00
[REDACTED] 2020	\$155.00
[REDACTED] 2020	\$155.00

23. For the period [REDACTED] 2019 through [REDACTED] 2020, the Department determined the Defendant ineligible for benefits under the SNAP because his household income exceeds the SNAP income limit for a household of one. The Department determined the Defendant overpaid \$930.00 for the period [REDACTED] 2019 through [REDACTED] 2020. Reference chart below and FOF # 20. (Hearing Record)

Issuance Month	Amount Received	Amount Entitled	Overpayment Amount
[REDACTED] 2019	\$155.00	\$00.00	\$155.00
[REDACTED] 2019	\$155.00	\$00.00	\$155.00
[REDACTED] 2019	\$155.00	\$00.00	\$155.00
[REDACTED] 2020	\$155.00	\$00.00	\$155.00
[REDACTED] 2020	\$155.00	\$00.00	\$155.00
[REDACTED] 2020	\$155.00	\$00.00	\$155.00
Totals	\$930.00	\$00.00	\$930.00

24. The Department searched the Electronic Disqualified Recipient System ("eDRS") by the Defendant's name, date of birth, and social security number and found no record of prior disqualifications for the Defendant. (Exhibit 6: eDRS Query)

25. On [REDACTED] 2022, the investigation unit issued a W-1448 Notice of Prehearing Interview Food Stamp Program ("W-1448") to the Defendant. The W-1448 charged that the Defendant broke the rules regulating the SNAP by failing to report employment timely and incurred an overpayment totaling \$930.00 under the SNAP. The Department scheduled an appointment for [REDACTED] 2022 to meet with the Defendant at the regional office to discuss the charge. (Exhibit 2: Prehearing Interview/Waiver of Disqualification Hearing)

26. On [REDACTED] 2022, the investigation unit mailed a Waiver of Disqualification Hearing ("W1449") to the Defendant. The notice charges the Defendant with an IPV. The notice notifies the Defendant of an overpayment of \$930.00 for the period [REDACTED] 2019 through [REDACTED]

2020, repayment options, and gives the Defendant options to voluntarily admit to the violation, voluntarily sign a waiver, or exercise his right to an administrative hearing. (Exhibit 2: Prehearing Interview/Waiver of Disqualification Hearing)

27. On [REDACTED] [REDACTED] 2022, the Defendant contacted the Investigation Unit to discuss the allegations. The Defendant reported he was unemployed and could not make restitution. (Department Representative's Testimony)
28. The Defendant did not appear at the Department's Regional Office on [REDACTED] [REDACTED] 2022 to discuss the charges with the investigation unit. (Hearing Record)
29. On [REDACTED] [REDACTED] 2022, the Department received a signed W-1449 from the Defendant. The Defendant checked the following: "I do not admit to the facts as presented by knowingly and voluntarily sign this Waiver and understand that a disqualification penalty will result. I have read this notice and wish to exercise my right to have an administrative hearing." (Exhibit 12: W-1449 Waiver of Disqualification)
30. On [REDACTED] [REDACTED] 2022, the OLCRAH conducted an administrative disqualification hearing. (Hearing Record)
31. The Defendant disagrees with the Department's allegation that he committed an IPV under the SNAP. The Defendant reports his failure to report his employment with the employer on the PRF and resulting increase in income as oversight but reports changes to the Department during the Department's interview process. The Defendant alleges he completed an interview with the Department reporting his employment with the employer. The date of such interview is not known. (Defendant's Testimony)
32. The Department conducts interviews with SNAP recipients at recertification which occurs annually. The Department does not conduct interviews with SNAP recipients upon receipt of a PRF. (Department Representative's Testimony)
33. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV when the Defendant failed to report employment on the [REDACTED] [REDACTED] 2019 and [REDACTED] [REDACTED] 2019 PRF's and failed to report his income exceeded the SNAP gross income limit by the [REDACTED] [REDACTED] 2019 reporting deadline. (Hearing Record)
34. The Department seeks to recover \$930.00 in overpaid SNAP benefits because the Defendant failed to follow the SNAP rules when he failed to

report his employment information on the PRF and failed to report his income exceeded the SNAP gross income limit timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) 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.

2. 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 investigation 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-88

Title 7 Section 273.16(a)(1) of the Code of Federal Regulations (“C.F.R.”) 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)

Federal regulation provides as follows:

The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional Program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, the State agency shall, upon household request, allow the household to waive the 30-day advance notice period required by [paragraph \(e\)\(3\)\(i\)](#) of this section when the disqualification hearing and fair hearing are combined.

7 C.F.R. § 273.16(e)(1)

On [REDACTED] [REDACTED] 2022, the OLCRAH correctly conducted an administrative disqualification hearing combined with a fair hearing.

3. Federal regulation provides as follows:

Monthly reporting households are required to report as provided in § 273.21. Quarterly reporting households are subject to the procedures as provided in paragraph (a)(4) of this section. Simplified report households are subject to the procedures as provided in paragraph (a)(5) of this section. Certified change reporting households are required to report the following changes in circumstances.

7 C.F.R. § 273.12(a)(1)

“The State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section.” 7 C.F.R. § 273.12(a)(5)

The Department correctly determined the Defendant subject to simplified reporting under the SNAP program.

Federal regulation provides as follows:

A household subject to simplified reporting in accordance [paragraph \(a\)\(5\)\(i\)](#) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at [§ 273.9\(a\)\(1\)](#). The household shall use the monthly gross income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.

7 C.F.R. § 273.12(a)(5)(v)

“The gross income eligibility standards for SNAP shall be as follows: The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.” 7 C.F.R. § 273.9(a)(1)(i)

The Department of Health and Human Services lists the annual 2018 Poverty Guideline for the 48 Contiguous States and the District of Columbia as \$12,140.00 for a household of one. [Federal Register, Vol. 83, No. 12, January 18, 2018 p 2643]

The United States Department of Agriculture (“USDA”), Food and Nutrition Service (“FNS”) lists the Gross Monthly Income Eligibility Standard (130 Percent of Poverty Level) for a household of one as \$1,316.00 for the period October 1, 2018 through September 30, 2019. [USDA FNS, SNAP FY 2019 Cost of Living Adjustments Policy Memo, July 27, 2018]

For the period ██████ ■ 2018 through ██████ ■ 2019, the SNAP gross income limit equals \$1,316.00 per month. \$12,140.00 annual FPL for household of one / 12 months = \$1,011.666 x 130% = \$1,315.1666.

The Department incorrectly determined 130% of the FPL equals \$1,307.00 per month. Federal regulations state the Department shall use the monthly gross income limit for the household size that existed at the time of its most recent recertification. The Defendant's 12-month recertification period began ██████ ■ 2019, therefore the gross income limit under the SNAP equaled \$1,316.00 as of ██████ ■ 2019.

The Department correctly determined the Defendant's gross monthly income exceeds the SNAP gross income limit or 130% of the FPL.¹ The Department correctly determined the Defendant failed to report his gross monthly income exceeded the SNAP gross income limit resulting in a violation of SNAP rules. Refer to FOF #9 and chart below.

Month	█████ 2019	█████ 2019	█████ 2019	█████ 2019	█████ 2019	█████ 2020	█████ 2020	█████ 2020
Gross	\$1,464.14	\$2,229.49	\$2,350.51	\$3,673.03	\$2,603.37	\$2,078.81	\$2,075.97	\$2,296.11
130% FPL	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00

4. Federal regulation provides as follows:

The periodic report form shall be the sole reporting requirement for any information that is required to be reported on the form, except that a household required to report less frequently than quarterly shall report when its monthly gross income exceeds the monthly gross income limit for its household size in accordance with paragraph (a)(5)(v) of this section.

7 C.F.R. § 273.12(a)(5)(iii)(G)(1)

Federal regulation provides as follows:

Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months, except those households described in §273.12(a)(5)(iii)(A), must file a periodic report between 4 months and 6 months, as required by the State agency. Households in which all adult members are elderly or have a disability with no earned income and are certified for periods lasting between 13 months and 24

¹ Although the Department incorrectly determined 130% of the FPL as \$1,307.00, there is no impact on the Department's outcome. The Defendant's income remained over the SNAP gross income limit of \$1,316.00.

months must file a periodic report once a year. In selecting a due date for the periodic report, the State agency must provide itself sufficient time to process reports so that households that have reported changes that will reduce or terminate benefits will receive adequate notice of action on the report in the first month of the new reporting period.

7 C.F.R. § 273.12(a)(5)(iii)(B)

“The periodic report form must request from the household information on any changes in circumstances in accordance with paragraphs (a)(1)(i) through (a)(1)(vii) of this section and conform to the requirements of paragraph (b)(2) of this section.” 7 C.F.R. § 273.12(a)(5)(iii)(C)

“A change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income.” 7 C.F.R. § 273.12(a)(1)(i)(B)

The Department correctly determined the Defendant failed to report changes in earned income by failing to list his new employment with the employer on the PRF. The Defendant failed to cross out the incorrect job information on the PRF, as per instructions on the PRF, and failed to complete the section “Describe any changes in earned income below,” leaving this section blank. The Department correctly determined the Defendant failed to establish good cause for the omission of employment and income changes on the PRF.

5. 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)

“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 C.F.R. § 273.16(e)(6)

Federal regulation provides as follows:

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.

7 C.F.R. § 273.16(c)

The Department correctly determined that the Defendant committed an intentional program violation (IPV) of SNAP regulations because the Defendant concealed the facts he started working for the employer and his household income exceeded the SNAP gross income limit. The Defendant failed to report employment on the PRF which he signed on [REDACTED] 2019. Additionally, the Defendant indicated on the [REDACTED] 2019 and [REDACTED] 2019 signed PRF's that he read the form and made no changes, failing to report new employment. Also, the Defendant failed to report his household income exceeded the SNAP gross income limit by [REDACTED] 2019, 10 days from the date the income exceeded the limit as instructed on the [REDACTED] 2019 NOA and required under SNAP regulations. The Defendant failed to report his job with the employer until [REDACTED] 2020, over 8-months after he started working. During this 8-month period, the Defendant's income exceeded the SNAP gross income limit. In addition, the Defendant failed to report employment at the cafe at time of the [REDACTED] 2019 recertification. The Defendant worked for the cafe from [REDACTED] 2019 through [REDACTED] 2019 establishing a pattern in which the Defendant failed to disclose information to the Department at time of recertification and again at time of PRF. Although the Defendant testified, he discloses employment information during interviews with the Department, the hearing record is void of any evidence to support his testimony. The Defendant contacted the Department via telephone on 4 separate occasions between [REDACTED] 2019 and [REDACTED] 2019, failing to disclose employment with the cafe. The Defendant contacted the Department via telephone on [REDACTED] 2019 and failed to

disclose employment with the employer. The Defendant failed to establish good cause for his failure to report new employment to the Department timely which violates SNAP regulations.

6. Federal regulation provides for the imposition of disqualification penalties.

If the hearing authority rules that the individual has committed an intentional Program violation, the household member must be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section. The same act of intentional Program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16(e)(8)(i)

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: 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 C.F.R. § 273.16(b)(1)(i)

The Department was correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 12 months under a first violation because the Defendant committed an IPV and subject to disqualification under the SNAP. Refer to Conclusion of Law # 5.

7. Federal regulation provides as follows:

Participation in the Program shall be limited to those household whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Household which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Household which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Household which are categorically eligible as defined in § 273.2(j)(2) or § 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels

established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

7 C.F.R. § 273.9(a)

“Definition of income. Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.” 7 C.F.R. § 273.9(b)

“Earned income shall include: all wages and salaries of employee.” 7 C.F.R. § 273.9(b)(1)(i)

Federal regulation provides as follows:

Determining income—(1) Anticipating income. (i) For the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by §273.12.

7 CFR § 273.10(c)(1)(i)

Federal regulation provides as follows:

Income only in month received. (i) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if

it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

7 C.F.R. § 273.10(c)(2)(i)

For ██████ 2019 through ██████ 2020, the Department correctly determined the Defendant’s countable gross wages. Refer to FOF #9.

Month	█████ 2019	█████ 2019	█████ 2019	█████ 2019	█████ 2019	█████ 2020	█████ 2020	█████ 2020
Gross	\$1,464.14	\$2,229.49	\$2,350.51	\$3,673.03	\$2,603.37	\$2,078.81	\$2,075.97	\$2,296.11

8. Federal regulation provides as follows:

Income eligibility standards. Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

7 C.F.R. § 273.9(a)

Federal regulation provides as follows:

The state agency at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food and Nutrition Act of 2008:

- A. Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.
- B. Subject to FNS approval, any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are

authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant, as set forth in Section 401 of P.L. 104-193, and requires participants to have a gross monthly income at or below 200 percent of the Federal poverty level.

7 C.F.R. § 273.2(j)(2)(ii)

“Any household in which one member receives or is authorized to receive benefits according to paragraphs (j)(2)(i)(B), (j)(2)(i)(C), (j)(2)(ii)(A) and (j)(2)(ii)(B), of this section and the State agency determines that the whole household benefits.” 7 C.F.R. § 273.2(j)(2)(iii)

“The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat, § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))

Section 2545.05(A)(2) of the Uniform Policy Manual (“UPM”) provides that “an assistance unit is considered categorically eligible for the SNAP program if at least one member of the assistance unit receives or is authorized to receive TANF-funded services under the Help for People in Need Program.”

Department policy provides for the gross income limits for SNAP Expanded Categorical Eligibility as 185% of the Federal Poverty Level. UPM P-5520.36

The Department of Health and Human Services lists the annual 2018 Poverty Guideline for the 48 Contiguous States and the District of Columbia as \$12,140.00 for a household of one. [Federal Register, Vol. 83, No, 12, January 18, 2018 p 2643]

Under expanded categorical eligibility (“ECE”), the gross income limit for a household of one equals \$1,872.00 for the period [REDACTED] 2018 through [REDACTED] 2019.

$\$12,140.00 / 12 \text{ months} = \$1,011.666 \times 185\% = \$1,871.58333$

The Department of Health and Human Services lists the annual 2019 Poverty Guideline for the 48 Contiguous States and the District of Columbia as \$12,490.00 for a household of one. [Federal Register, Vol. 84, No, 22, February 1, 2019 p 1168]

Under ECE, the gross income limit for a household of one equals \$1,926.00 for the period [REDACTED] 2019 through [REDACTED] 2020.

\$12,490.00 / 12 months = \$1,040.8333 x 185% = \$1,925.541

9. "Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with § 273.11(a)(2)(iii)." 7 C.F.R. § 273.10(e)(1)(i)(A)

The Department correctly calculated the gross household income. Reference chart below. Refer to Conclusions Of Law ("COL") # 7.

Month	[REDACTED] 2019	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020				
Gross wages	\$1,464.14	\$2,229.49	\$2,350.51	\$3,673.03	\$2,603.37	\$2,078.81	\$2,075.97	\$2,296.11
+ Gross unearned income	\$00.00	\$00.00	\$00.00	\$00.00	\$00.00	\$00.00	\$00.00	\$00.00
= Monthly gross Income	\$1,464.14	\$2,229.49	\$2,350.51	\$3,673.03	\$2,603.37	\$2,078.81	\$2,075.97	\$2,296.11
ECE = 185% FPL	\$1,872.00	\$1,872.00	\$1,926.00	\$1,926.00	\$1,926.00	\$1,926.00	\$1,926.00	\$1,926.00

Because the Defendant's gross household income exceeds the gross SNAP income limit under ECE beginning [REDACTED] 2019, the Defendant is not categorically eligible and subject to the gross income test.

For [REDACTED] 2019 through [REDACTED] 2020, the Department correctly calculated the Defendant's SNAP benefit as \$00.00 because the Defendant's gross household income exceeds the SNAP gross income limit under ECE. The Department incorrectly excluded [REDACTED] 2019 as the Defendant's gross household income exceeds the gross SNAP income limit under ECE and the Defendant ineligible for [REDACTED] 2019.

10. "A recipient claim is an amount owed because of benefits that are overpaid." 7 CFR § 273.18(a)(1)(i)

"This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency may establish and collect any claim by following these regulations." 7 CFR § 273.18(a)(2)

Types of Claims: There are three types of claims: 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 CFR § 273.18(b)(1)

The Department correctly determined the SNAP overpayment claim as an IPV claim because the Defendant committed an IPV of SNAP regulations. Refer to COL # 5.

11. 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)

Federal regulation provides as follows:

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)

The Department incorrectly determined the start of the overpayment claim as ██████ 2019. Federal regulations state, “for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred.” The start of the overpayment claim is September 1, 2019, the month the act of IPV first occurred. The Defendant’s household income exceeded the SNAP gross income limit of \$1,316.00 in ██████ 2019. The Defendant had until ██████ 2019 to report this change. The Defendant failed to report his income exceeded the SNAP gross income limit by ██████ 2019 deadline, therefore the Defendant’s committed the IPV as of ██████ 2019. Additionally, the Defendant failed to report

employment on the PRF issued by the Department on [REDACTED] 2019 with a due date of [REDACTED] 2019 and signed by the Defendant on [REDACTED] 2019 as required under simplified reporting SNAP regulations. This failure to report employment on the PRF occurred in [REDACTED] 2019 also.

12. Federal regulation provides as follows:

The actual steps for calculating a claim are:

- A. Determine the correct amount of benefits for each month that a household received an overpayment.
- B. Do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim unless the claim is an AE claim then apply the earned income deduction.
- C. Subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment unless this answer is zero or negative then dispose of the claim referral.

7 C.F.R. § 273.18(c)(1)(ii)

The Department correctly determined the Defendant overpaid \$930.00 for the period [REDACTED] 2019 through [REDACTED] 2020. However, the Department failed to evaluate the overpayment claim as of [REDACTED] 2019, the month the overpayment claim begins. However, the hearing record is void of any evidence confirming a SNAP benefit for [REDACTED] 2019.

Month	Received	Entitled	Overpayment	Subject to Recoupment
[REDACTED] 2019	\$155.00	\$00.00	\$155.00	\$155.00
[REDACTED] 2019	\$155.00	\$00.00	\$155.00	\$155.00
[REDACTED] 2019	\$155.00	\$00.00	\$155.00	\$155.00
[REDACTED] 2020	\$155.00	\$00.00	\$155.00	\$155.00
[REDACTED] 2020	\$155.00	\$00.00	\$155.00	\$155.00
[REDACTED] 2020	\$155.00	\$00.00	\$155.00	\$155.00
Totals	\$930.00	\$00.00	\$930.00	\$930.00

DECISION

Regarding the Intentional Program Violation under the SNAP and the Department's request to disqualify the Defendant from SNAP for a period of 12 months, the Defendant is found guilty.

Regarding the Department's request to recover the overpayment claim of \$930.00 for the period [REDACTED] 2019 through [REDACTED] 2020, the appeal is granted.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Sally Stanley, Investigator

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, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. 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 his 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.