

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 # 197829

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”) to seek 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 failing to report household income. The Department also seeks to recover overpaid SNAP benefits of \$1,997.00.

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

On [REDACTED] [REDACTED] 2022, the United States Postal Service (“USPS”) delivered the NoAH packet to the Defendant. A certified mail return receipt signed by the Defendant and USPS online tracking document is in the hearing record.

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, subsection (e) without the Defendant’s presence.

PRESENT AT THE HEARING

Richard Yuskas, Investigations Unit Supervisor and Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation (“IPV”) of the SNAP 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 of \$1,997.00 for the period [REDACTED] [REDACTED] 2019 through [REDACTED] [REDACTED] 2019 is correct.

FINDINGS OF FACT

1. The Defendant received benefits under the SNAP for herself and [REDACTED] [REDACTED] (‘daughter’) her daughter. (Hearing Record)
2. The Defendant is age [REDACTED] born on [REDACTED] and not disabled. (Exhibit 2: Case Search/Summary and Exhibit 3: Online Renewal Document)
3. The daughter is age [REDACTED] on [REDACTED] and not disabled. (Exhibit 2: Case Search/Summary and Exhibit 3: Online Renewal Document)
4. On [REDACTED] [REDACTED] 2017, the Department certified the Defendant’s eligibility under the SNAP for a household of two. The 12-month certification period began [REDACTED] [REDACTED] 2018 and ended on [REDACTED] [REDACTED] 2018. (Exhibit 2: Case Search/Summary and Exhibit 19: Department Emails)
5. On [REDACTED] [REDACTED] 2018, the Defendant began working full time for [REDACTED] dba [REDACTED] (the “employer”) earning \$11.30 per hour. The Defendant

received her first pay on [REDACTED] [REDACTED] 2018. (Exhibit 9: CCC Verify Governmental Verification)

6. The Defendant earned the following weekly pays from the employer for the period beginning [REDACTED] [REDACTED] 2018 through [REDACTED] [REDACTED] 2019. (Exhibit 9: CCC Verify Governmental Verification and Exhibit 10: Gross Income Chart)

<u>2018</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>Totals</u>
[REDACTED]	[REDACTED]	262.60	[REDACTED]	161.60	[REDACTED]	257.26					\$681.46
[REDACTED]	[REDACTED]	219.63	[REDACTED]	287.56	[REDACTED]	203.73	[REDACTED]	208.53			\$919.45
[REDACTED]	[REDACTED]	232.01	[REDACTED]	208.50	[REDACTED]	260.05	[REDACTED]	267.60	[REDACTED]	215.35	\$1,183.51
[REDACTED]	[REDACTED]	226.00	[REDACTED]	205.40	[REDACTED]	207.55	[REDACTED]	176.80			\$815.75
[REDACTED]	[REDACTED]	309.95	[REDACTED]	269.95	[REDACTED]	241.80	[REDACTED]	317.50			\$1,139.20
[REDACTED]	[REDACTED]	306.35	[REDACTED]	290.75	[REDACTED]	293.60	[REDACTED]	249.60	[REDACTED]	291.75	\$1,432.05
<u>2019</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>PD</u>	<u>Gross</u>	<u>Totals</u>
[REDACTED]	[REDACTED]	243.95	[REDACTED]	242.95	[REDACTED]	122.20	[REDACTED]	200.20			\$809.30
[REDACTED]	[REDACTED]	186.75									\$186.75
[REDACTED]	[REDACTED]	228.80	[REDACTED]	197.60	[REDACTED]	251.25	[REDACTED]	278.91			\$956.56
[REDACTED]	[REDACTED]	284.58	[REDACTED]	362.52	[REDACTED]	387.10	[REDACTED]	356.28	[REDACTED]	351.83	\$1,742.37
[REDACTED]	[REDACTED]	378.30	[REDACTED]	289.90	[REDACTED]	223.60	[REDACTED]	319.80			\$1,211.60
[REDACTED]	[REDACTED]	239.20	[REDACTED]	309.40	[REDACTED]	335.40	[REDACTED]	257.40	[REDACTED]	386.10	\$1,527.50
[REDACTED]	[REDACTED]	353.60	[REDACTED]	313.30	[REDACTED]	383.50	[REDACTED]	322.40			\$1,372.80
[REDACTED]	[REDACTED]	292.88	[REDACTED]	489.88	[REDACTED]	290.13	[REDACTED]	300.86	[REDACTED]	290.13	\$1,663.88
[REDACTED]	[REDACTED]	314.88	[REDACTED]	265.38	[REDACTED]	259.88	[REDACTED]	518.38	[REDACTED]	405.63	\$1,764.15
[REDACTED]	[REDACTED]	67.80	[REDACTED]	180.80	[REDACTED]	110.18	[REDACTED]	312.16			\$670.94

7. Recipients of SNAP must report to the Department when their gross household income exceeds the SNAP gross income limit which equals 130% of the Federal Poverty Level ("FPL"). The SNAP gross income limit for a household of two equaled \$1,760.00. (Department Representative's Testimony)
8. On [REDACTED] [REDACTED] 2018, the Department received the Appellant's online renewal document requesting continued benefits under the SNAP for herself and daughter. The renewal document is void of any income information for the household. The renewal document is void of any household expenses. (Exhibit 3: Online Renewal Document)
9. On [REDACTED] [REDACTED] 2018, the Department completed the renewal interview with the Defendant. At the interview, the Defendant reported she pays \$400.00 per month for rent but does not pay for utilities. The Defendant reported to the Department she pays her monthly rent with money from savings and money earned from doing hair earning \$80.00 - \$100.00 per client. The Defendant reported she is pregnant. The Defendant failed to disclose her employment with the employer to the Department during the renewal interview. (Department Representative's Testimony and Exhibit 4: Case Notes)

10. On [REDACTED] [REDACTED] 2019, the Defendant submitted a signed statement of earnings to the Department. The Defendant writes, "To whom it may concern I [the Defendant] does hair, I usually make around 100 a week doing hair which is about 400 a month!!" (Exhibit 5: Client Statement)
11. The Department determined the Defendant's monthly gross household income as \$430.00 per month. (Hearing Record)
12. The Department recertified the Defendant's SNAP benefits for a twelve month period beginning [REDACTED] [REDACTED] 2019 and ending [REDACTED] [REDACTED] 2019. (Exhibit 19: Department Emails)
13. On [REDACTED] [REDACTED] 2019, the Appellant gave birth to [REDACTED] ("infant"). (Exhibit 2: Case Search/Summary)
14. On [REDACTED] [REDACTED] 2019, the Department received the Defendant's online Periodic Report Form ("PRF"). The Defendant listed household members as herself, her daughter, and the infant. The Defendant answered No to the question "Did your household's gross monthly earned income listed in section go up or down by more than \$100?" Listed on the PRF is household income as wages, person with income: the Defendant, Name of Employer: Does hair, How often: Weekly, Amount: 100.00. The Defendant left the question, "Did this income have any changes?" blank. The PRF is void of any information referencing employment with the employer. (Exhibit 6: Periodic Report Form)
15. An interview between the Department and SNAP recipients is not required at the time the PRF is issued or received by the Department. (Department Representative's Testimony)
16. On [REDACTED] [REDACTED] 2019, the Department received the Appellant's online renewal document requesting continued benefits under the SNAP for herself, her daughter, and the infant. The Defendant answers yes to the question "has work income?" listing employment type as wages, employer/company name as "does hair", job start date as "[REDACTED] 18" and paid weekly. The Defendant left gross income per pay period and hourly pay rate blank. The Defendant did not answer the question, does this person still have this work income? The Defendant lists rent as \$400 monthly and does not pay for utilities, except telephone. The renewal document is void of any information regarding the Defendant's employment with the employer. (Exhibit 7: Online Renewal Document)
17. On [REDACTED] [REDACTED] 2019, the Department reviewed the Defendant's online renewal document. The Department attempted to contact the Defendant via telephone to complete the renewal interview but did not make contact.

Upon review of electronic data bases, the Department discovered the Defendant's employment with the employer. The Department determined the Defendant failed to report employment with the employer to the Department. The Department obtained the Defendant's payroll/wages from the employer through the electronic data base and recalculated eligibility for the Defendant creating an overpayment claim. The Department referred the overpayment claim to the Department's Investigation Unit for further investigation. (Exhibit 1: Update Referral and Exhibit 8: Case Notes)

18. On [REDACTED] [REDACTED] 2020, the Defendant terminated employment with the employer. (Exhibit 9: CCC Verify Governmental Verification)
19. The Investigations Unit determined the Defendant failed to report her employment with the employer to the Department on her [REDACTED] [REDACTED] 2018 SNAP online renewal document and failed to report this employment to the Department during the renewal interview that same day. Additionally, the Defendant failed to report this employment on her [REDACTED] 2019 online PRF submitted to the Department the same day and the Defendant failed to report her employment with the employer on the [REDACTED] 2019 online renewal document. (Hearing Record)
20. The Investigations Unit determined because the Defendant's household income did not exceed the SNAP gross income limit of \$1,760.00, 130% of the Federal Poverty Limit ("FPL"), for a household of two from [REDACTED] 2018 through [REDACTED] 2018, the Defendant did not need to report the new employment with the employer prior to her [REDACTED] 2018 application for recertification under simplified reporting. (Hearing Record)

2018	Employer	+	Hair	=	Total Earnings	130% FPL
[REDACTED]	\$681.46	+	430.00	=	1,111.46	1,760.00
[REDACTED]	\$919.45	+	430.00	=	1,349.45	1,760.00
[REDACTED]	\$1,183.51	+	430.00	=	1,613.51	1,760.00
[REDACTED]	\$815.75	+	430.00	=	1,245.51	1,760.00
[REDACTED]	\$1,139.20	+	430.00	=	1,569.20	1,760.00
[REDACTED]	\$1,432.05	+	430.00	=	1,862.05	1,760.00

21. On [REDACTED] [REDACTED] 2021, the Investigations Unit issued the Defendant a Notice of Appointment informing the Defendant she broke the rules under the SNAP because she failed to report her employment with the employer and incurred an overpayment of SNAP benefits in the amount of \$3,037.00. The Investigations Unit scheduled an appointment to discuss the matter for [REDACTED] [REDACTED] 2021 at the regional office. (Exhibit 14: Appointment Letter)
22. On [REDACTED] [REDACTED] 2021, the Defendant spoke with the Investigations Unit disputing the Department's allegation of unreported wages and requesting

- to reschedule the [REDACTED] [REDACTED] 2021 appointment. The Department rescheduled this appointment to [REDACTED] [REDACTED] 2021. (Hearing Summary)
23. On [REDACTED] [REDACTED] 2021, the Defendant did not appear for the scheduled appointment. (Hearing Summary)
24. On [REDACTED] [REDACTED] 2022, the Investigations Unit issued the Defendant a Notice of Appointment scheduling an appointment to meet with the Defendant at the regional office on [REDACTED] [REDACTED] 2022. (Exhibit 15: Notice of Appointment)
25. On [REDACTED] [REDACTED] 2022, the Defendant spoke with the Investigations Unit requesting to reschedule the [REDACTED] [REDACTED] 2022 appointment. The Investigations Unit rescheduled this appointment to [REDACTED] [REDACTED] 2022. (Hearing Summary)
26. On [REDACTED] [REDACTED] 2022, the Defendant did not appear for the scheduled appointment. (Hearing Summary)
27. The Investigations Unit determined the Defendant committed an IPV under the SNAP because she failed to comply with SNAP regulations when she failed to list employment on the [REDACTED] [REDACTED] 2018 online renewal document, failed to disclose employment during the [REDACTED] [REDACTED] 2018 redetermination telephone interview, failed to list employment on the [REDACTED] 1, [REDACTED] PRF, and failed to list employment on the [REDACTED] [REDACTED] 2019 online renewal document. (Hearing Record)
28. The Defendant received the following SNAP benefits for the period [REDACTED] [REDACTED] 2018 through [REDACTED] [REDACTED] 2019: (Exhibit 10: Gross Income Chart and Exhibit 12: Benefit Issuance Search)

Issuance Month	Amount Received
[REDACTED] 2018	\$353.00
[REDACTED] 2019	\$341.00
[REDACTED] 2019	\$353.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$505.00
[REDACTED] 2019	\$509.00
[REDACTED] 2019	\$509.00
[REDACTED] 2019	\$509.00

29. For the period [REDACTED] 2019 through [REDACTED] 2019, the Investigations Unit determined the Defendant overpaid benefits under the SNAP for the reason the Defendant failed to report changes to her household income timely resulting in an overpayment claim totaling \$1,997.00. (Exhibit 11: SNAP Computation Sheets, Exhibit 12: Benefit Issuance Search, Exhibit 13: Monthly Details, and Department Representative's Testimony)

Issuance Month	Amount Received	Amount Entitled	Overpayment Amount
[REDACTED] 2019	\$505.00	\$38.00	\$467.00
[REDACTED] 2019	\$505.00	\$108.00	\$397.00
[REDACTED] 2019	\$509.00	\$00.00	\$509.00
[REDACTED] 2019	\$509.00	\$00.00	\$509.00
[REDACTED] 2019	\$509.00	\$394.00	\$115.00
Total	\$2,537.00	\$540.00	\$1,997.00

30. On [REDACTED] 2022, the Investigations Unit mailed a Waiver of Disqualification Hearing ("W-1449") to the Defendant. The notice charges the Defendant with an IPV. The gives the Defendant options to voluntarily admit to the violation, voluntarily sign a waiver, or exercise her right to an administrative hearing. (Exhibit 16: W1449 Waiver of Disqualification and Department Representative's Testimony)

31. On [REDACTED] 2022, the Department received a signed W-1449 from the Defendant dated [REDACTED] 2022 in which the Defendant chose to exercise her right to an administrative disqualification hearing. (Hearing Summary and Exhibit 19: W1449 Waiver of Disqualification)

32. On [REDACTED] 2022, the OLCRAH received a request from the Investigations Unit for an administrative disqualification hearing. Submitted with this request were the hearing summary and documents prepared by the Investigations Unit supporting their claim that the Defendant committed an IPV and is subject to a 12 month disqualification penalty under the SNAP. Additionally, the Department is seeking repayment of SNAP benefits for the period [REDACTED] 2019 through [REDACTED] 2019 totaling \$1,997.00. (Hearing Record)

33. On [REDACTED] 2022, the OLCRAH mailed the Defendant a Notice of Administrative Hearing ("NoAH") informing the Defendant that the Department scheduled of an administrative disqualification hearing for [REDACTED] 2022 via certified mail. The NoAH included notification of the Defendant's rights in these proceedings and the Department's hearing summary and evidence supporting the Department's case against the Defendant. (Hearing Record)

34. On [REDACTED] [REDACTED] 2022, the Defendant received the NoAH, notification of the Defendant's rights, the hearing summary and supporting evidence as evidenced by the USPS signed domestic return receipt. (Hearing Record)
35. On [REDACTED] [REDACTED] 2022, the OLCRAH conducted an administrative disqualification hearing. The Defendant did not appear for the hearing. (Hearing Record)
36. The Department searched the Electronic Disqualified Recipient System ("eDRS") by the Defendant's social security number and found no record of prior disqualifications for the Defendant. (Exhibit 17: eDRS Query)
37. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV because the Defendant broke the rules governing SNAP. The Defendant failed to report new employment at time of recertification by excluding employment information on the [REDACTED] [REDACTED] 2018 redetermination document and failing to disclose his employment during the [REDACTED] [REDACTED] 2018 telephone interview. The Defendant failed to disclose employment on the [REDACTED] [REDACTED] 2019 PRF and again at recertification on [REDACTED] [REDACTED] 2019, the following year. (Hearing Record)
38. The Department seeks to recover \$1,997.00 in overpaid SNAP benefits because the Defendant failed to follow the SNAP rules when she failed to report her employment information on the redetermination document and during the redetermination interview and failed to report employment at the time of the PRF. Refer to Finding of Fact ("FOF") # 36. (Hearing Record)
39. 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 notice of the initiation of the ADH process. On [REDACTED] [REDACTED] 2021, the OLCRAH mailed the Defendant notification of the initiation of the ADH process. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2022.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes ("CGS") 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 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-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 ██████████ 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:

Reporting when gross income exceeds 130 percent of poverty level. A household subject to simplified reporting in accordance with 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)

Federal regulation provides as follows:

Certified households must report changes within 10 days of the date the change becomes known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred. For reportable changes of income, the State agency shall require that change to be reported within 10 days of the date that the household receives the first payment attributable to the change. For households subject to simplified reporting, the household must report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household receives the payment with at least 10 days remaining in the month. If there are not 10 days remaining in the month, the household must report within 10 days from receipt of the payment. Optional procedures for reporting changes are contained in paragraph (f) of this section for households in States with forms for jointly reporting SNAP and public assistance changes and SNAP and general assistance changes.

7 C.F.R. § 273.12(a)(2)

Federal regulation provides as follows:

The gross income eligibility standards for the Food Stamp Program 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 level for the 48 contiguous States and the District of Columbia.

7 C.F.R. § 273.9(a)(1)(i)

Federal regulation provides as follows:

130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upwards as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary.

7 C.F.R. § 273.9(a)(3)(i)

“The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.” 7 C.F.R. § 273.9(a)(3)

The 2017 poverty guidelines for the 48 contiguous states and the District of Columbia for a household of two equals \$16,240.00. [Federal Register/Vol. 82, No. 19/Tuesday, January 31, 2017/Notices p. 8832]

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 the 48 contiguous States and D.C. for a household of two as \$1,760.00 for the period October 1, 2017 through September 30, 2018. (United States Department of Agriculture, SNAP - Fiscal Year 2018 Cost-of-Living Adjustments Memo, July 28, 2017)

**For the period [REDACTED] ■ 2017 through [REDACTED] ■ 2018:
 \$16,240.00 annual / 12 months = \$1,353.33 monthly poverty guideline
 \$1,353.33 x 130% = \$1,759.3333
 \$1,760.00 SNAP gross income limit**

Between [REDACTED] ■ 2018 through [REDACTED] ■ 2018, the Department correctly determined the Defendant’s total household income did not exceed the SNAP gross income limit of \$1,760.00, the gross income limit for a household of two at time of recertification.

The Department incorrectly determined the Defendant’s income remained below the SNAP gross income limit of \$1,760.00 for [REDACTED] 2018. Based on federal regulation, 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. The certification period began [REDACTED] ■ 2018. The gross income limit for a household of two at time of certification equaled \$1,760.00. The infant is not included as the infant was born after [REDACTED] ■ 2018, the start of the certification period. The Defendant’s gross

household income of \$1,862.05 for ██████████ 2018 exceeded this limit. The Defendant failed to report to the Department by ██████████ ██████████ 2019 that her household income exceeded the SNAP gross income limit. Refer to Finding of Facts (“FOF”) # 6, 10, 11, & 20.

2018	Employer	Hair	Total Household Earnings	SNAP Gross Income Limit
██████████	\$681.46	430.00	1,111.46	\$1,760.00
██████████	\$919.45	430.00	1,349.45	\$1,760.00
██████████	\$1,183.51	430.00	1,613.51	\$1,760.00
██████████	\$815.75	430.00	1,245.51	\$1,760.00
██████████	\$1,139.20	430.00	1,569.20	\$1,760.00
██████████	\$1,432.05	430.00	1,862.05	\$1,760.00

4. Federal regulation provides as follows:

General. No household may participate beyond the expiration of the certification period assigned in accordance with §273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

7 C.F.R. § 273.14(a)

Federal regulation provides as follows:

Application. The State agency must develop an application to be used by households when applying for recertification. It may be the same as the initial application, a simplified version, a monthly reporting form, or other method such as annotating changes on the initial application form. A new household signature and date is required at the time of application for recertification. The provisions of §273.2(c)(7) regarding acceptable signatures on applications also apply to applications used at recertification. The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period, except for delayed applications as specified in paragraph (e)(3) of this section. The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The State agency must notify the applicant of information which is specified in §273.2(b)(2), and provide the household with a notice of required verification as specified in §273.2(c)(5).

7 C.F.R. § 273.14(b)(2)

Federal regulation provides as follows:

Mandatory verification. State agencies shall verify the following information prior to certification for households initially applying: (i) *Gross nonexempt income.* Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the State agency, and all other sources of verification are unavailable, the eligibility worker shall determine an amount to be used for certification purposes based on the best available information.

7 C.F.R. § 273.2(f)(1)(i)

Federal regulation provides as follows:

At recertification the State agency shall verify a change in income if the source has changed or the amount has changed by more than \$50. Previously unreported medical expenses, actual utility expenses and total recurring medical expenses which have changed by more than \$25 shall also be verified at recertification. The State agency shall not verify income if the source has not changed and if the amount is unchanged or has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify total medical expenses, or actual utility expenses claimed by households which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. For households eligible for the child support deduction or exclusion, the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. A household would not have to provide any additional verification unless they disagreed with the information provided by the State CSE agency. State agencies that choose to use information provided by their State CSE agency in accordance with this paragraph (f)(8)(i)(A) must specify in their State plan of operation that they have selected this option. For all other households eligible for the child support deduction or exclusion, the State agency shall require the household to verify any changes in the legal obligation to pay child support, the obligated amount, and the amount of legally obligated child support a household member pays to a nonhousehold member. The State agency shall verify reportedly unchanged child support information only if the information is incomplete, inaccurate, inconsistent or outdated.

7 C.F.R. § 273.2(f)(8)(i)(A)

Federal regulation provides as follows:

As part of the recertification process, the State agency must conduct a face-to-face interview with a member of the household or its authorized representative at least once every 12 months for households certified for 12 months or less. The provisions of §273.2(e) also apply to interviews for recertification. The State agency may choose not to interview the household at interim recertifications within the 12-month period. The requirement for an interview once every 12 months may be waived in accordance with §273.2(e)(2).

7 C.F.R. 273.14(b)(3)

Federal regulation provides as follows:

The State agency may use a telephone interview instead of the face-to-face interview required in paragraph (e)(1) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone. The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

7 C.F.R. § 273.2(e)(2)

On [REDACTED] [REDACTED] 2018, the Defendant correctly filed an online renewal document requesting continued benefits under the SNAP. However, the Defendant's renewal document failed to include employment information.

The Department correctly determined the Defendant failed to report employment with the employer at recertification. Specifically, the Defendant failed to list employment information on the [REDACTED] 2018 online renewal document and failed to disclose her employment on [REDACTED] 2018 during the recertification interview. The Department correctly determined the Defendant failed to establish good cause for the omission of employment and income changes on her 2018 online renewal document and at the recertification interview.

Additionally, the Defendant failed to report employment with the employer again, one year later. Specifically, the Defendant failed to list employment information on the [REDACTED] 2019 online renewal document. The Department correctly determined the Defendant failed to establish good cause for the omission of employment and income changes on her 2019 online renewal document.

5. 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 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 her employment with the employer on the [REDACTED] 2019 online PRF. The Department correctly determined the Defendant failed to establish good cause for the omission of employment and income changes on the PRF.

6. 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 the Defendant committed an intentional program violation (IPV) of SNAP regulations because the Defendant concealed and withheld the fact she started working for the employer on [REDACTED] 2018 on several occasions. The Defendant failed to report new employment with the employer on the [REDACTED] 2018 online renewal document, failed to report employment with the new employer at the [REDACTED] 2018 recertification interview, failed to report her employment with the employer on the [REDACTED] 2019 PRF and failed to report employment with the employer on the [REDACTED] 2019 online renewal document. Additionally, the Defendant failed to report her gross household income as of [REDACTED] 2018 exceeded the SNAP gross income limit or 130% of the FPL by [REDACTED] 2019. The Defendant failed to establish good cause for her failure to report new employment to the Department timely which violates SNAP regulations resulting in an IPV.

7. 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 when she failed to report employment to the Department on several occasions and subject to a disqualification penalty under the SNAP. Refer to Conclusion of Law # 6.

8. Federal regulation provides as follows:

Anticipating Income. 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 C.F.R. § 273.10(c)(1)

“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)

Federal regulation provides in pertinent part as follows:

Earned income shall include:

- i. All wages and salaries of an employee.
- ii. The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the costs of doing business as provided in [paragraph \(c\)](#) of this section. Ownership of rental property shall be considered a self-employment enterprise; however, income derived from the rental property shall be considered earned income only if a member of the household is actively engaged in the management

of the property at least an average of 20 hours a week. Payments from a roomer or boarder, except foster care boarders, shall also be considered self-employment income.

7 C.F.R. § 273.9(b)(1)

Federal regulation provides as follows:

The State agency must calculate a household's self-employment income as follows:

Averaging self-employment income. Self employment income must be averaged over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the State agency must calculate the self-employment income on the basis of anticipated, not prior, earnings.

7 C.F.R. § 273.11(a)(1)(i)

Federal regulation provides as follows:

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 resource starting in the month received and shall not be counted as income.

7 C.F.R. § 273.10(c)(2)(i)

The Department correctly determined wages from the employer as earned income.

The Department incorrectly determined the income earned from doing hair as unearned income. As the Defendant provides a service and is paid for this service, income from doing hair is considered earnings. Based on the hearing record, whether such earnings are through self-employment or working at a salon cannot be determined.

9. Federal regulation provides in pertinent part as follows:

Deductions shall be allowed only for the following household expenses:

(1) Standard deduction. (i) Effective October 1, 2002, in the 48 States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands, the standard deduction for household sizes one through six shall be equal to 8.31 percent of the monthly net income eligibility standard for each household size established under [paragraph \(a\)\(2\)](#) of this section rounded up to the nearest whole dollar. For household sizes greater than six, the standard deduction shall be equal to the standard deduction for a six-person household.

(2) Earned income deduction. Twenty percent of gross earned income as defined in [paragraph \(b\)\(1\)](#) of this section. Earnings excluded in [paragraph \(c\)](#) of this section shall not be included in gross earned income for purposes of computing the earned income deduction, except that the State agency must count any earnings used to pay child support that were excluded from the household's income in accordance with the child support exclusion in [paragraph \(c\)\(17\)](#) of this section.

(6) Excess shelter deduction. (ii) Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in [paragraphs \(d\)\(1\)](#) through [\(d\)\(5\)](#) of this section have been allowed. If the household does not contain an elderly or disabled member, as defined in [§ 271.2 of this chapter](#), the shelter deduction cannot exceed the maximum shelter deduction limit established for the area. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12 month period ending the previous November 30. FNS will notify State agencies of the amount of the limit.

(6)(iii)(C) A standard with a heating or cooling component must be made available to households that incur heating or cooling expenses separately from their rent or mortgage and to households that receive direct or indirect assistance under the Low Income Home Energy Assistance Act of 1981 (LIHEAA). A heating or cooling standard is available to households in private rental housing who are billed by their landlords on the basis of individual usage or who are charged a flat rate separately from their rent. However, households in public housing units which have central utility meters and which charge households only for excess heating or cooling

costs are not entitled to a standard that includes heating or cooling costs based only on the charge for excess usage unless the State agency mandates the use of standard utility allowances in accordance with [paragraph \(d\)\(6\)\(iii\)\(E\)](#) of this section. Households that receive direct or indirect energy assistance that is excluded from income consideration (other than that provided under the LIHEAA) are entitled to a standard that includes heating or cooling only if the amount of the expense exceeds the amount of the assistance. Households that receive direct or indirect energy assistance that is counted as income and incur a heating or cooling expense are entitled to use a standard that includes heating or cooling costs. A household that has both an occupied home and an unoccupied home is only entitled to one standard.

7 C.F.R. § 273.9(d)

The Department correctly determined the Defendant qualified for the standard deduction under the SNAP.

The Department incorrectly determined the Defendant ineligible for the earned income deduction for doing hair. This income was reported to the Department and qualifies for the earned income deduction. Wages from the employer do not qualify for the earned income deduction as the Defendant withheld this wage information which resulted in an IPV.

Based on the hearing record the correct shelter deduction cannot be determined. The Defendant indicated on her [REDACTED] 2018 and [REDACTED] 2019 online redetermination documents and at the [REDACTED] 2018 redetermination interview, that she does not pay for utilities, has not received energy assistance, but pays \$400.00 rent. Based on the Defendant's actual household's gross income and the Defendant's shelter costs, the Defendant does not qualify for the SUA.

10. Federal regulation provides as follows:

Eligibility for recertification shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. The level of benefits for recertifications shall be based on the same anticipated circumstances, except for retrospectively budgeted households which shall be recertified in accordance with [§ 273.21\(f\)\(2\)](#). If a household, other than a migrant or seasonal farmworker household, submits an application after the household's certification period has expired, that application shall be considered an initial application and benefits for that month shall be prorated in accordance with [paragraph \(a\)\(1\)\(ii\)](#) of this section. If a

household's failure to timely apply for recertification was due to an error of the State agency and therefore there was a break in participation, the State agency shall follow the procedures in [§ 273.14\(e\)](#). In addition, if the household submits an application for recertification prior to the end of its certification period but is found ineligible for the first month following the end of the certification period, then the first month of any subsequent participation shall be considered an initial month. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month.

7 C.F.R. § 273.10(a)(2)

11. Federal regulation provides as follows:

To determine a household's net monthly income, the State agency shall:

- A. 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\(a\)\(2\)\(iii\)](#).
- B. Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with [§ 273.9\(c\)\(17\)](#), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.
- C. Subtract the standard deduction.
- D. If the household is entitled to an excess medical deduction as provided in [§ 273.9\(d\)\(3\)](#), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.
- E. Subtract allowable monthly dependent care expenses, if any, as specified under [§ 273.9\(d\)\(4\)](#) for each dependent.
- F. If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with [§ 273.9\(d\)\(5\)](#), subtract allowable monthly child support payments in accordance with [§ 273.9\(d\)\(5\)](#).
- G. Subtract the homeless shelter deduction, if any, up to the maximum of \$143.
- H. Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with [paragraph \(e\)\(1\)\(i\)\(G\)](#) of this section. Subtract from total shelter costs 50 percent

of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to [paragraph \(e\)\(1\)\(i\)\(I\)](#) of this section.

- I. Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

The Department failed to properly calculate the corrected SNAP benefit beginning ██████████ 2019 through ██████████ 2019 listing income from doing hair as unearned income rather than earnings, failing to apply the earned income deduction to earnings from hair, failing to review eligibility for the SUA based on shelter costs and actual household income.

12. "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 may 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: 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)

The Department correctly determined the SNAP overpayment as intentional program violation because the Defendant committed an IPV of SNAP regulations, however the amount of the overpayment cannot be determined based on the hearing record. Refer to COL # 6.

13. 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:

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)

The Department incorrectly determined the start date of the overpayment claim as ██████ 2019. The correct begin date for the overpayment claim is ██████ 2019, the month in which the Defendant's new certification period began where authorized benefits should have included the Defendant's employment income from the employer along with income earned from doing hair and the month the Defendant failed to report her household income exceeded the SNAP gross income limit. The Department's explanation that the Defendant was not overpaid beginning ██████ 2019 due to a decrease in income and an increase in the household size is not logical nor is it supported by federal regulations. The Defendant's eligibility for the certification period ██████ 2019 through ██████ 2019 should have included employment income from the employer. A decrease in earnings or medical leave does not negate the Defendant's failure to report employment earnings exceeding the SNAP gross income limit, at time of recertification, or on the PRF.

14. 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)

Based on the hearing record, the overpayment claim must be recalculated and therefore, the appeal is remanded back to the Department for further action.

DECISION

With regard to whether the Defendant committed an Intentional Program Violation under the SNAP, the Defendant is found guilty.

With regard to the Department's request to disqualify the Defendant from SNAP and impose a first SNAP penalty for twelve months due to an IPV, the Department's request is granted.

With regard to the Department's request to recover the overpayment claim of \$1,997.00 for the period [REDACTED] ■ 2019 through [REDACTED] ■ 2019, the appeal is remanded back to the Department for further action.

ORDER

1. The Department must recalculate eligibility under the SNAP beginning [REDACTED] ■ 2019 to determine the correct amount of the overpayment claim under the IPV beginning [REDACTED] ■ 2019. The Department must correctly apply income from doing hair as wages and allow the earned income deduction for such wages. The Defendant is not entitled to the earned income deduction for wages from the employer. The Department must review shelter costs and eligibility for the shelter deduction.
2. The Department must correct the start date of the overpayment claim to [REDACTED] ■ 2019 and recalculate the overpayment claim beginning [REDACTED] ■ 2019.
3. The Department must issue a corrected notice of the IPV overpayment claim amount to the Defendant.

4. Compliance is due 14-days from the date of this decision.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Richard Yuskas, Investigations Unit, DSS 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.