

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 ██████████
Case ID ██████████
Request # 199435

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
████████████████████

REASON FOR HEARING

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received a request for an Administrative Disqualification Hearing (“ADH”) seeking disqualification of ██████████ ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for twelve (12) months from the Department of Social Services (“Department”) Investigations and Recoveries Division (“Investigations Unit”). The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by failing to accurately report his family composition. The Department is not seeking to recover SNAP benefits.

On ██████████, 2022, the OLCRAH mailed the Defendant a Notice of Administrative Hearing (“NoAH”) via United States Postal Service (“USPS”) certified mail informing the Defendant that the Department scheduled of an Administrative Disqualification Hearing for ██████████, 2022. 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 ██████████, 2022, the notifications were delivered and signed for by the Defendant.

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

The Defendant did not appear for the in-person ADH held on [REDACTED], 2022.

PRESENT AT THE HEARING

The following individuals were present at the hearing:

Dominic Laird, Investigator, Department Representative
Jessica Gulianello, Hearing Officer

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

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.

FINDINGS OF FACT

1. On [REDACTED], 2018, the Defendant submitted a paper application to Access Health CT (“AHCT”) requesting medical coverage. The Defendant reported that he was residing with his [REDACTED], [REDACTED] at the address of [REDACTED]. (Exhibit 8: AHCT application, [REDACTED]/2018, Hearing Summary, Department’s Testimony)
2. On [REDACTED], 2021, the Defendant was issued a [REDACTED] Identification Card from the Department of Motor Vehicles (“DMV”). The Defendant reported his residential and mailing address as [REDACTED] to the DMV. (Exhibit 7: [REDACTED] Interface, printed [REDACTED]/2022, Hearing Summary, Department’s Testimony)
3. On [REDACTED], 2022, the Department received an online application (“ONAP”) requesting benefits under the SNAP from the Defendant. (Exhibit 5: ONAP, [REDACTED]/2022, Hearing Summary, Department’s Testimony)
4. On [REDACTED], 2022, the Department reviewed the ONAP and registered the Defendant’s request for benefits under the SNAP in the online eligibility management system, (“ImpaCT”). (Exhibit 6: Case Notes Details, [REDACTED]/2022)

5. The Defendant is [REDACTED] years old (DOB: [REDACTED]). The Defendant reported a residential address of [REDACTED], and applied for benefits under the SNAP as an eligibility determination group (“EDG”) comprised of one individual. (Exhibit 5: ONAP, [REDACTED]/2022, Hearing Summary, Department’s Testimony)
6. On [REDACTED], 2022, the Department determined the Defendant to be eligible for benefits under the SNAP for April 2022 only as an EDG comprised of one individual. The benefits under the SNAP remained in a pending status for [REDACTED] 2022 forward awaiting completion of the telephone interview (“TI”) and proof of the Defendant’s last date worked details from his former employment with [REDACTED]. (Exhibit 6: Case Notes – Details, [REDACTED]/2022)
7. On [REDACTED], 2022, the Department received an ONAP requesting benefits under the SNAP for [REDACTED] (the “LLR”), [REDACTED] years old (DOB [REDACTED]), and [REDACTED], [REDACTED] (“the Child”), [REDACTED] years old (DOB [REDACTED]). (Exhibit 2: ONAP, [REDACTED]/2022, Hearing Summary, Department’s Testimony)
8. The Defendant is the father of the common Child. (Exhibit 4: FRED Investigation Worksheet, Department’s Testimony)
9. On [REDACTED], 2022, the Department reviewed and registered the LLR’s request for benefits under the SNAP in ImpaCT. The LLR also reported a residential address of [REDACTED]. The Department contacted the LLR by phone and completed a TI. During the TI the LLR provided conflicting statements concerning the household composition. As a result, the Department submitted an electronic Fraud and Early Detection (“FRED”) referral to the Department’s Investigations unit citing questionable verification as the reason for the referral. (Exhibit 3: Case Notes – Details, [REDACTED]/2022, Exhibit 4: ImpaCT FRED Referral, [REDACTED]/2022)
10. On [REDACTED], 2022, the Department received documentation from [REDACTED] confirming the Defendant’s last date worked was [REDACTED], 2021. (Exhibit 6: Case Notes – Details, [REDACTED]/2022)
11. On [REDACTED], 2022, the Defendant contacted the Department and completed a TI. (Exhibit 6: Case Notes – Details, [REDACTED]/2022, Hearing Summary Department’s Testimony)
12. On [REDACTED], 2022, the Department issued the Defendant a Notice of Action (“NOA”) advising that he was determined to be eligible for continued benefits under the SNAP in the amount of \$250 per month as an EDG comprised of one individual. (Exhibit 15: NOA, [REDACTED]/2022)
13. On [REDACTED], 2022, an Investigator from the Department conducted an unscheduled home visit to [REDACTED] in response to

the FRED referral that had been submitted on [REDACTED], 2022. (Exhibit 4: FRED Investigation Worksheet, Department's Testimony)

14. On [REDACTED], 2022, the Defendant and the LLR were both present at the residence. (Exhibit 4: FRED Investigation Worksheet, Hearing Summary, Department's Testimony)
15. On [REDACTED], 2022, the Department's Investigator questioned the Defendant and the LLR in person but separately. (Hearing Summary, Department's Testimony)
16. On [REDACTED], 2022, the LLR reported that she has been a resident of [REDACTED] [REDACTED] with the Child for the past two months. The LLR reported that the Defendant resides separately at [REDACTED] in [REDACTED], [REDACTED]. (Exhibit 4: FRED Investigation Worksheet, [REDACTED]/2022, Hearing Summary, Department's Testimony)
17. On [REDACTED], 2022, the Defendant reported that he resides at [REDACTED] [REDACTED]. (Hearing Summary, Department's Testimony)
18. On [REDACTED], 2022, the Investigator from the Department observed the following names on the mailbox for [REDACTED]: [REDACTED], [REDACTED], and [REDACTED]. (Hearing Summary, Department's Testimony)
19. The LLR worked for at least [REDACTED] separate employers in 2021 and she had reported a residential address of [REDACTED] to these companies. (Exhibit 9: Equifax/The Work Number, Hearing Summary, Department's Testimony)
20. The Department concluded that the Defendant intentionally failed to add the LLR and the Child to his application. (Hearing Summary, Department's Testimony)
21. On [REDACTED], 2022, the Department searched the Electronic Disqualified Recipient System ("eDRS") by the Defendant's first and last name, date of birth, and social security number and found no record of prior disqualifications for the Defendant under the SNAP. (Exhibit 10: eDRS Query, [REDACTED]/2022)
22. On [REDACTED], 2022, the Department mailed the following forms to the Defendant: Administrative Disqualification Hearing Process and Rights Information Sheet, Notice of Prehearing Interview Food Stamp Program ("W-1448"), and Waiver of Disqualification Hearing SNAP Program ("W-1449"). The W-1448 alleged that the Defendant intentionally broke the SNAP rules; however, the Department is not seeking an overpayment in this matter. The Investigations Unit scheduled a prehearing interview appointment for [REDACTED], 2022, at [REDACTED] [REDACTED] to meet with the Defendant at the regional office to discuss the charges. (Exhibit 11: W-1448, Exhibit 13: Process & Rights Information Sheet, Exhibit 14: W-1449).

23. The Defendant did not attend the prehearing interview scheduled for [REDACTED], 2022. (Hearing Record)
24. The Department did not receive a signed W-1449 Waiver of Disqualification Hearing from the Defendant. (Hearing Record)
25. On [REDACTED], 2022, the Defendant contacted the investigator by phone and denied any fraudulent activity, and asserted that he had proof and documents to support his position. (Hearing Summary, Department's Testimony)
26. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year due to a first offense IPV. (Hearing Record)
27. The Defendant's case has not been referred to the state police, a prosecuting attorney, or the Attorney General for recovery in the court system. (Department's Testimony)
28. 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. The Defendant signed for the ADH packet on [REDACTED], 2022. This decision is due no later than [REDACTED], 2022, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the 2018 Supplement to the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
The Department has the authority to administer SNAP.
2. Section 17b-88 of the Connecticut General Statutes provides that if a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and shall consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as confirms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the

aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

The Department has the authority to recover SNAP.

The Department is not seeking to recover SNAP benefits from the Defendant.

3. Title 7 of the Code of Federal Regulations (“CFR”) 273.16(a)(1) provides that the State agency shall be responsible for investigating any case of alleged intentional Program violation, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an over issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over issuance by establishing an inadvertent household error claim against the household in accordance with the procedures in § 273.18. The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

Title 7 of the CFR § 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of an Intentional Program Violation (“IPV”) in accordance with the requirements outlined in this section.

4. The Department’s Uniform Policy Manual (“UPM”) is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
5. UPM § 7050 provides that in the Food Stamp program the Department conducts Administrative Disqualification Hearings in certain instances of alleged intentional recipient error as an alternative to referrals to the court system for prosecution. Individuals, who are determined to have committed an intentional recipient error are

subjected to recoupment requirements and, in some cases, are disqualified from the SNAP program for a specified amount of time.

UPM § 7050.05(B) provides that the following situations involving alleged intentional recipient errors are referred to the Administrative Disqualification Hearing process at the option of the Department: (1) Those cases involving active and previously active assistance unit members alleged to have committed acts of intentional recipient errors which are not referred to the State Police, to a prosecuting authority or to the Attorney General; (2) Those cases involving active and previously active assistance unit members alleged to have committed acts of intentional recipient errors which are referred to the State Police, to a prosecuting authority, or to the Attorney General and subsequently rejected for prosecution, dismissed, dropped or nulled by the court system.

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

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

6. Title 7 of the CFR § 273.16(c) provides that intentional program violations shall consist of having intentionally:
 1. Made a false or misleading statement, or misrepresented, concealed or withheld facts, or
 2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, or possessing, or trafficking of coupons, authorization cards, or reusable documents used as part of an automated benefit delivery system (access device).

Title 7 of the CFR § 273.16(e)(6) provides that 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. UPM § 7000.01 defined Intentional Recipient Error as an intentionally oral or written statement made by the assistance unit regarding circumstances affecting eligibility or the amount of benefits. An intentional recipient error is also the intentional failure by the assistance unit to report timely the receipt of income or assets or other changes in circumstances affecting eligibility or the amount of benefits.
8. UPM § 7005.10(A)(1) provides that the Department classified errors as agency, recipient or provider caused. (2) If an overpayment is caused by the assistance unit, the Department makes a preliminary determination regarding whether the

error was intentional or unintentional, and whether to pursue a legal action against the assistance unit on fraud charges. (3) If the Department seeks to impose a penalty against the assistance unit, a final determination regarding the nature of a recipient error is made either by a court of jurisdiction or by the Department through the Administrative Disqualification Hearing Process.

UPM § 7005.10 (B)(1) provides that Agency errors that cause overpayments include, but are not limited to failing to take timely action on a change reported by the assistance unit.

UPM § 7005.10(C)(2)(a) provides that the Department preliminarily classifies a recipient error as intentional if:

1. the assistance unit fails without good cause to report a change affecting eligibility in a timely manner; or
 2. the assistance unit knowingly misinforms the Department regarding information affecting eligibility; or
 3. the assistance unit commits an illegal act such as cashing a duplicate check after falsely claiming non-receipt of the first check.
 4. The assistance unit or its authorized representative withdraws cash or food stamp benefits from the EBT account after they notify the Department that they need a new debit card and before the time the Department's designee deactivates the card.
9. UPM § 7050 provides that in the AFDC and Food Stamp programs the Department conducts Administrative Disqualification Hearings in certain instances of alleged intentional recipient error as an alternative to referrals to the court system for prosecution. Individual who are determined to have committed an intentional recipient error are subjected to recoupment requirements and, in some cases, are disqualified from the AFDC and/or Food Stamp programs for a specified amount of time. This chapter describes the Department's policies and procedures concerning the Administrative Disqualification hearing process.
10. UPM § 7050.05(A)(1) provides that the Department considers an overpayment to be the result of an intentional recipient error if:
- a. A court of competent jurisdiction decrees that the assistance unit member has committed an intentional recipient error or grants individual accelerated rehabilitation; or
 - b. The Department, through the Administrative Disqualification hearing process, determines that the assistance unit member has committed an intentional recipient error; or
 - c. The assistance unit member waives his or her right to an Administrative Disqualification Hearing.

The Hearing Record established clear and convincing evidence that the Defendant intentionally violated the SNAP regulations and Departmental policy by misrepresenting his household composition in writing on the ONAP received on [REDACTED], 2022, and during the TI that he conducted on [REDACTED], 2022.

11. 7 CFR § 273.16(b) identifies the disqualification penalties as follows: Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: (i) For a period of twelve months for the first intentional Program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;(ii) For a period of twenty-four months upon the second occasion of any intentional Program violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and (iii) Permanently for the third occasion of any intentional Program violation.

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of twelve (12) months.

DECISION

The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program by misrepresenting his household composition. The Department's request that the Defendant be disqualified and ineligible to participate in the program for a period of one year is **GRANTED**.

Jessica Gulianello

Jessica Gulianello
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Dominic Laird, DSS Investigator, RO 10

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.