

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 ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

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 a change in household composition. The Department also seeks to recover overpaid SNAP benefits in the amount of \$1,195.00.

On ██████████, 2022, the Office of Legal Counsel, Regulations and Administrative Hearings (“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, the Department’s hearing summary, and evidence supporting the Department’s case against the Defendant.

On ██████████ 2022, the OLCRAH mailed the Defendant a Notice Regarding Non-Receipt of the Administrative Disqualification Hearing Notice, a copy of the NoAH, and the entire packet including notification of her rights in these proceedings, the Department’s hearing summary, and evidence to support the Department’s case by first class mail.

On [REDACTED], 2022, the ADH packet that was sent by certified mail was “returned to sender” by the USPS as “unclaimed, unable to forward”.

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

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

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

PRESENT AT THE HEARING

Christopher Pinto, Department Representative
Jessica Gulianello, Hearing Officer

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

STATEMENT OF THE ISSUE

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

A secondary issue to be decided is whether the Department’s proposal for recoupment of a SNAP overpayment (“OP”) in the amount of \$1,195.00 for the period of [REDACTED] 2020, through [REDACTED] 2021, is correct.

FINDINGS OF FACT

1. The Department determined the Defendant [REDACTED] and her two [REDACTED] children, [REDACTED] (DOB [REDACTED]), and [REDACTED] (DOB [REDACTED]) were eligible for SNAP benefits as a household of three individuals for a twelve (12) month certification period beginning [REDACTED] 2019, and ending [REDACTED] 2020. (Exhibit 16: W-1ERL, [REDACTED]/2020)
2. On [REDACTED], 2020, the Department mailed the Defendant a Notice of Renewal of Eligibility (“W-ERL”) for the SNAP with a Notice of Renewal of Eligibility (“W-1ER”)

form enclosed. The W-1ERL stated the following: “We must get the completed and signed electronic or paper renewal form. If we do not get that signed form by [REDACTED]/2020, the renewal process may be delayed. You must submit the renewal by [REDACTED]/2020 to receive uninterrupted benefits. You must complete your form and submit all the required proofs by [REDACTED]/2020 or your benefits may stop.”

The Certifications and Signatures section of the W-1ER included but was not limited to the following statements:

“I certify under penalty of perjury that all of the information given on this form is true and complete to the best of my knowledge.”

“I certify that I have specific knowledge of the identity of all children for whom I am asking for help on this form and that the information I gave about these children is accurate to the best of my knowledge.”

“I understand that I can be criminally and civilly prosecuted under state and federal law if I knowingly give incorrect information or fail to report something I should report.”

“I authorize DSS to verify any information given on this form.”

(Exhibit 15: W-1ERL & W-1ER, [REDACTED]/2020)

3. On [REDACTED] 2020 (Friday), at 6:01 pm the Defendant submitted an online application (“ONAP”) for the SNAP. The ONAP was auto marked as received the next business day [REDACTED] 2020 (Monday). (Exhibit 2: ONAP [REDACTED] 2020)
4. The Defendant was required to agree to provisions equivalent to the terms reflected on the W-1ER including but not limited to attesting to providing accurate information and verifying that she had read the rules and regulations of the SNAP program prior to submission of the ONAP. (Exhibit 14: Email Correspondence, [REDACTED] 2022, Department’s Testimony)
5. On the ONAP the Defendant requested continued SNAP benefits for a household of three individuals: herself and her two children [REDACTED] and [REDACTED]. The Defendant answered questions pertaining to these two children as follows:

“Does this person live with you?”	Answer: Yes
“Do you purchase and prepare food with this person?”	Answer: Yes
“Does this person plan to remain in CT?”	Answer: Yes

(Exhibit 2: ONAP [REDACTED] 2020)

6. On [REDACTED] 2020, the Department reviewed the ONAP and used it in substitution of the W-1ER to process the SNAP renewal. The Department initiated the SNAP

renewal in the online eligibility management system (“ImpaCT”). The Department unsuccessfully attempted to contact the Defendant by phone to conduct a telephone interview (“TI”). (Exhibit 11: Case Notes – Details, █████ 2020)

7. On █████ 2020, the Department mailed the Defendant an Interview Notice (“W-3015N”) requesting she contact the Department by █████ 2020, to conduct the mandatory interview. (Exhibit 12B: W-3015N, █████ 2020)
8. On █████ 2020, the Defendant contacted the Department’s Benefit Center to conduct the TI and a referral was sent to the █████ Regional office. The Department completed the TI with the Defendant later that same day and reinstated the SNAP benefits. (Exhibit 11: Case Notes Details, █████ 2020)
9. The Defendant reported to the Department that her household had no income and no expenses at the time of the renewal. (Exhibit 12C: NOA, █████/2020, Department’s Testimony)
10. On █████ 2020, the Defendant was mailed a Notice of Action (“NOA”) advising that the household, comprised of three individuals: █████, █████ and █████ were determined to be eligible for SNAP benefits in the amount of \$475 for █████ 2020 and \$509 for the benefit period beginning █████ 2020, and ending █████ 2021. (Exhibit 12C: NOA, █████ 2020)
11. The SNAP benefit amount for the Defendant’s household auto increased from \$509 to \$535 effective █████ 2020. (Department’s Testimony, Hearing Record)
12. The SNAP benefit amount for the Defendant’s household auto increased again from \$535 to \$616 effective █████ 2021. (Department’s Testimony, Hearing Record)
13. The ImpaCT Benefit History Search confirms the Defendant was paid a total of \$3,962 in SNAP benefits for the period of █████ 2020 through █████ 2021.

Calculation as follows:

Month	SNAP Amount
█████ 2020	\$509
█████ 2020	\$535
█████ 2020	\$535
█████ 2020	\$535
█████ 2021	\$535 + \$81= \$616
█████ 2021	\$616
█████ 2021	\$616
Total	\$3,962

(Exhibit 5: ImpaCT Benefit History - Search, Case # [REDACTED], Hearing Record)

14. On [REDACTED] 2021, the Investigations Unit for the Department initiated a review of the Defendant's eligibility for benefits under the SNAP following receipt of a fraud referral alleging that the Defendant had been misrepresenting the household and committed an IPV violation under the SNAP as [REDACTED] ("the child") was not in the home and had been residing out of state in [REDACTED]. (Exhibit 1: ImpaCT Referral, [REDACTED]/2021, Hearing Summary, Department's Testimony)
15. On [REDACTED] 2021, the Department verbally spoke with the child's case worker from the [REDACTED] as well as the child's temporary guardian, [REDACTED] by phone. Both parties substantiated that the child was removed from the Defendant's home in [REDACTED] 2020. (Department's Testimony)
16. The Department received a letter from the child's legally liable relative, [REDACTED] [REDACTED] corroborating that the child was removed from the Defendant's home in [REDACTED] 2020 and remains in the care of [REDACTED] in the state of [REDACTED]. (Exhibit 13: Correspondence, Department's Testimony)
17. The Department determined that the Defendant made false statements concerning the composition of her household on the ONAP signed on [REDACTED] 2020, and again during the TI that was conducted on [REDACTED], 2020, as the child had been previously removed from her household by [REDACTED] in [REDACTED] of 2020. The Department asserted that changes in household composition must be reported at the time of application and at the time of recertification. (Hearing Summary, Department's Testimony)
18. The Department determined that the Defendant was entitled to the maximum SNAP benefit amount for a household of two individuals for the months of [REDACTED] 2020 through [REDACTED] 2021 totaling \$2,767.

Calculation as follows:

Month	SNAP Amount
[REDACTED] 2020	\$355
[REDACTED] 2020	\$374
[REDACTED] 2020	\$374
[REDACTED] 2020	\$374
[REDACTED] 2021	\$430
[REDACTED] 2021	\$430
[REDACTED] 2021	\$430
Total	\$2,767

(Exhibit 4: W-1216: [REDACTED] Hearing Record)

19. The Department determined that the Defendant committed an IPV under the SNAP because the Defendant failed to report that the minor Child did not live with her at time of recertification. (Hearing Record)
20. On [REDACTED] 2022, the Department issued the Defendant a Notice of Prehearing Interview (“W-1448”) scheduling an in-person appointment for [REDACTED] 2022, at 10:00 am at the Regional Office to discuss her SNAP benefits. The notice stated the Defendant broke the SNAP rules on purpose and stated, “There is an overpayment related to this situation. You received \$1,195.00 more than you should have in Food Stamp benefits. This happened because unreported change in household composition”. The Department also issued a Waiver of Disqualification Hearing (“W-1449”) notice advising the Defendant of the Department’s proposal to disqualify her from the SNAP and the Administrative Disqualification Hearing Process and Rights Information Sheet (“W-1447”). (Exhibit 3: ADH packet [REDACTED]2022)
21. On [REDACTED] 20202, the Defendant failed to appear for the prehearing interview and failed to contact the Defendant to reschedule the prehearing interview. The Department did not receive the form W-1449 signed from the Defendant. (Hearing Summary, Department’s Testimony, Hearing Record)
22. On [REDACTED] [REDACTED] 2022, the OLCRAH conducted an Administrative Disqualification Hearing. (Hearing Record)
23. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV as the Defendant failed to inform the Department the child no longer resided in the home at recertification. This would be the Defendant’s first disqualification penalty under the SNAP. (Exhibit 6: eDRs, [REDACTED]/2022, Hearing Summary, Department’s Testimony, Hearing Record)
24. The Department seeks to recover \$1,195.00 in overpaid SNAP benefits as the Defendant violated the SNAP regulations when she failed to report the change in the household composition at the time of recertification. The overpayment under the SNAP was calculated as follows:

Month	Received	Entitled	Overpayment
[REDACTED] 2020	\$509	\$355	\$154
[REDACTED] 2020	\$535	\$374	\$161
[REDACTED] 2020	\$535	\$374	\$161
[REDACTED] 2020	\$535	\$374	\$161
[REDACTED] 2021	\$616	\$430	\$186
[REDACTED] 2021	\$616	\$430	\$186
[REDACTED] 2021	\$616	\$430	\$186
Totals	\$3,962	\$2,767	\$1,195

(Hearing Summary, Department’s Testimony, Hearing Record)

25. 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] 2022, the OLCRAH mailed the Defendant a copy of the ADH packet, and it is presumed to have been delivered. Thus, this decision is due no later than [REDACTED] 2022, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

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

The Department has the authority to administer SNAP.

2. Section 17b-88 of the Connecticut General Statutes provides that if a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and shall consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as 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.

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 again 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 to support that the Defendant intentionally violated the SNAP regulations and Departmental policy by misrepresenting her household composition in writing on the ONAP and during the TI.

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 disqualification of the Defendant from participating in the SNAP program for a period of twelve (12) months.

13. UPM § 7045.10(A)(3) provides that the Department recoups an overpayment caused by intentional recipient error if the overpayment occurred no earlier than 72 months prior to the month the Department discovers it.

UPM § 7045.10(A) provides (1) The Department recoups an overpayment caused by administrative error if the overpayment occurred no later than 12 months prior to the month the Department discovers it. (3) The Department recoups an overpayment caused by intentional recipient error if the overpayment occurred no earlier than 72 months prior to the month the Department discovers it.

UPM § 7045.15(E) provides that an overpayment caused by intentional recipient error begins the first date covered by an erroneously issued benefit, and ends the last day of the month the Department becomes aware of the error.

UPM § 7005.15(A) provides the Department computes the amount of the error by comparing the amount of the benefits the assistance unit should have received to the amount of benefits the assistance unit actually dd receive for a particular month of series of months.

The Department correctly determined that the Defendant was overpaid benefits under the SNAP as the result of an intentional program violation.

The Defendant was issued benefits under the SNAP totaling \$3,962 for the period of [REDACTED] 2020 through [REDACTED] 2021.

The Defendant was entitled to benefits under the SNAP in the amount of \$2,767 for the period of [REDACTED] 2020 through [REDACTED] 2021.

I find that the Department correctly determined that the Appellant was overpaid benefits under the SNAP totaling \$1,195 for the period of [REDACTED] 2020 through [REDACTED] 2021.

The Department is correct to seek recoupment of SNAP overpayments totaling \$1,195 for the months of [REDACTED] 2020 through [REDACTED] 2021.

DECISION

1. The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program by misrepresenting her 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**.
2. With regards to the Department's request to recover the SNAP overpayment of \$1,195 the request is **GRANTED**.

Jessica Gulianello

Jessica Gulianello
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Christopher Pinto, 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.