

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 # 200704

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
████████████████████
██

REASON FOR HEARING

On ██████████ 2022, the Department of Social Services (the "Department") Investigations and Recoveries Division ("Investigations Division") made a request for an Administrative Disqualification Hearing ("ADH") to seek disqualification of ██████████ (the "Defendant") from participation in the Supplemental Nutrition Assistance Program ("SNAP") for twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") by failing to report household income. The Department also seeks to recover overpaid SNAP benefits of \$1,536.00.

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

On ██████████ 2022, OLCRAH mailed the Defendant the ADH notice scheduling the administrative disqualification hearing for ██████████ 2022 via first class mail because the original certified ADH notice remained unclaimed.

On [REDACTED] [REDACTED] 2022, the United States Postal Service returned the ADH notice issued by the OLCRAH on [REDACTED] [REDACTED] 2022 via certified mail to the Department listing the reason as unclaimed.

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

PRESENT AT THE HEARING

[REDACTED] [REDACTED] Defendant
Erica Stevenson, Department Investigator
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 regulations by failing to report household income and subject to a twelve (12) month disqualification penalty under the SNAP.

A secondary issue to be decided is whether the Department’s proposal to recoup a SNAP overpayment claim totaling \$1,536.00 for the period [REDACTED] [REDACTED] 2019 through [REDACTED] [REDACTED] 2019 is correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2018, the Defendant applied for medical benefits under the Husky program after injuring her shoulder. At the recommendation of the Department, the Defendant completed an application for benefits under the SNAP. (Appellant’s Testimony and Exhibit 10: Notice of Action)
2. On [REDACTED] [REDACTED] 2018, the Department determined the Defendant eligible for benefits under the SNAP effective [REDACTED] [REDACTED] 2018 certifying her eligibility for benefits through [REDACTED] [REDACTED] 2019. (Exhibit 10: Notice of Action)
3. On [REDACTED] [REDACTED] 2018, the Department issued the Defendant a Notice of Action (“NOA”) confirming her eligibility under the SNAP. The notice lists the certification period as [REDACTED] [REDACTED] 2018 through [REDACTED] [REDACTED] 2019. The notice includes the following statements:

- You are legally required to report certain changes that could affect your eligibility for SNAP benefits. Read about what you must report at the end of this notice.
 - Your SNAP benefit amount may change when you report changes to DSS, or if the law changes during your certification period.
 - You must call the Benefit Center at 1-855-626-6632 to report the following changes to us during your SNAP period of eligibility:
 1. If your household's total monthly gross income is more than \$1,316.00. Total monthly gross income is all wages from working and money you get from any other source before taxes and deductions.
 2. If you or a member of your household who is subject to time-limited SNAP works fewer than 80 hours in a month or is in an approved employment and training program for fewer than 80 hours in a month.
 - You must report changes to us by the 10th of the month following the month of the change.
 - In ██████████ 2019, we will send you a form called the Periodic Report Form (PRF). When you get the PRF, you must fill it out and send it to us by ██████████/2019 to keep getting SNAP benefits. We use the information reported on the PRF to confirm or change the amount of your benefits. (Exhibit 10: Notice of Action)
4. On ██████████ ██████████ 2018, ██████████ (the "employer") rehired the Defendant as a Certified Nurse's Aide ("CNA") in the maternity ward earning \$15.64 per hour after over a yearlong absence. (Exhibit 5: Equifax Consumer Employment and Income Report and Defendant's Testimony)
5. The Defendant earned the following biweekly pays from the employer. (Exhibit 5: Equifax Consumer Employment and Income Report)

Period End Date	Pay Date		Gross Wages
██████/18	██████/18		1,119.96
██████/18	██████/18	+	\$1,675.83
██████ 2018 total		=	<u>\$2,795.79</u>
Period End Date	Pay Date		Gross Wages
██████/19	██████/19		\$1,785.46
██████/19	██████/19	+	\$1,781.43
██████ 2019 total		=	<u>\$3,566.89</u>
Period End Date	Pay Date		Gross Wages
██████/19	██████/19		\$1,590.36
██████/19	██████/19	+	\$1,468.26
██████ 2019 total		=	<u>\$3,058.62</u>

Period End Date	Pay Date	Gross Wages
█/19	█/19	\$1,733.26
█/19	█/19	+ \$1,706.81
█ 2019 total		= <u>\$3,440.07</u>
Period End Date	Pay Date	Gross Wages
█/19	█/19	\$1,785.13
█/19	█/19	+ \$2,091.18
█ 2019 total		= <u>\$3,876.31</u>
Period End Date	Pay Date	Gross Wages
█/19	█/19	\$2,597.58
█/19	█/19	+ \$2,027.95
█/19	█/19	+ \$2,535.94
█ 2019 total		= <u>\$7,161.47</u>
Period End Date	Pay Date	Gross Wages
█/19	█/19	\$2,332.31
█/19	█/19	+ \$2,320.84
█ 2019 total		= <u>\$4,653.15</u>
Period End Date	Pay Date	Gross Wages
█/19	█/19	\$1,608.88
█/22	█/19	+ \$1,695.70
█ 2019 total		= <u>\$3,304.58</u>
Period End Date	Pay Date	Gross Wages
█/19	█/19	\$2,038.22
█/19	█/19	+ \$1,908.29
█ 2019 total		= <u>\$3,946.51</u>
Period End Date	Pay Date	Gross Wages
█/19	█/19	\$1,588.67
█/19	█/19	+ \$1,200.00
█ 2019 total		= <u>\$2,788.67</u>

6. On █ █ 2019, the Department issued a Periodic Report Form to the Defendant to complete, sign, and return by █ █ 2019. The form includes the following statements and instructions:
- You are now halfway through your SNAP benefits period. We need to know if you have any changes to report to us.
 - You must complete this page, sign, and return all pages in order to continue receiving benefits. Fill the correct bubble below, sign, and return all pages. I read this form and I made no changes. I read this form and I have made changes.

- By signing, I agree that:
 - I have read this entire form including the section about rights and responsibilities, or have had it read to me in a language that I understand, and that I must comply with these rules;
 - The information I am giving is true and complete to the best of my knowledge;
 - I could go to prison or be required to pay fines if I knowingly give wrong or incomplete information; and
 - DSS and other federal, state, and local officials may verify (check) any information I give.
 - Below is the information we have about your household. If you have changes to report, cross out what is listed and give us the correct information in the space provided. If you report any new information, include an explanation, and return the form in the envelope provided.
 - There is no income for this case.
 - Describe any changes in earned income below. If anyone in your household has new earned income, tell us what type, employer's name and address, who is working, how often they are paid (weekly, bi-weekly etc.), and the amount. Send proof in the envelope with this form. (Exhibit 9: Periodic Report Form)
7. On [REDACTED] [REDACTED] 2019, the Defendant submitted a completed PRF to the Department which she signed on [REDACTED] [REDACTED] 2019. The Defendant checked the bubble which states, "I read this form and I made no changes." The PRF is void of any corrections or changes. (Exhibit 9: Periodic Report Form and Exhibit 8: Case Notes)
 8. The Defendant failed to list her employment with the employer on the PRF which she signed on [REDACTED] [REDACTED] 2019 and failed to cross out the incorrect wage information listing no source of income under the earned income section. (Exhibit 9: Periodic Report Form)
 9. On [REDACTED] [REDACTED] 2019, the Defendant confirmed her job with the employer with the Department during a recertification of SNAP benefits interview. (Exhibit 8: Case Notes)
 10. On [REDACTED] [REDACTED] 2019, the Department closed the Appellant's SNAP benefits effective [REDACTED] [REDACTED] 2019 because the Defendant's earned income exceeded the SNAP income limit. (Exhibit 8: Case Notes and Investigator's Testimony)
 11. On [REDACTED] [REDACTED] 2019, the Department submitted a referral to the Investigation Division to investigate the Defendant's employment status after receiving a written complaint through the Department's fraud hotline. (Exhibit 2: Report of Suspected IPV Overpayment, Exhibit 6: Impact Update Referral Printout, and Investigator's Testimony)

12. Under SNAP rules, SNAP recipients must report changes in their household income on the PRF, which includes new employment. (Investigator's Testimony)
13. Under SNAP rules, SNAP recipients must report to the Department when their household income exceeds 130% of the FPL by the 10th of the month following the month the SNAP recipient's income exceeds the SNAP limit. (Investigator's Testimony)
14. On [REDACTED] [REDACTED] 2022, the Investigation Division determined the Defendant failed to report her employment with the employer on the PRF signed by the Defendant on [REDACTED] [REDACTED] 2019 because she failed to include the employer information on the signed PRF and checked off "I read this form and I made no changes" on the PRF. Additionally, the Defendant failed to report that her monthly gross income from the employer exceeded the SNAP gross income limit of 130% of the federal poverty level ("FPL") by [REDACTED] [REDACTED] 2019, the month after the Defendant's income exceeded the SNAP gross income limit. 130% of the FPL for a household of one equaled \$1,316.00 at time of certification. Refer to chart below which shows the Defendant's gross monthly income from the employer exceeds 130% of the FPL. Refer to Finding of Fact ("FOF") # 5. (Hearing Record)

Month	[REDACTED] 2018	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019
Gross	\$2,795.70	\$3,566.89	\$3,058.62	\$3,440.07	\$3,876.31
130% FPL	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00
Month	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019
Gross	\$7,161.47	\$4,653.15	\$3,304.58	\$3,946.51	\$2,788.67
130% FPL	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00

15. The Investigation Division determined the Defendant committed an IPV under the SNAP because she failed to report employment on the PRF signed by the Defendant on [REDACTED] [REDACTED] 2019 and failed to report her household income exceeded 130% of the FPL by [REDACTED] [REDACTED] 2019, the 10th day after her household income exceeded the SNAP gross income limit. The Defendant's household income continued to exceed the SNAP gross income limit of \$1,316.00. Refer to FOF # 5 and 14. (Hearing Record)
16. The Defendant received the following SNAP benefits for the period [REDACTED] [REDACTED] 2019 through [REDACTED] [REDACTED] 2019 as listed in the chart below. (Exhibit 11: Benefit History Search and Exhibit 4: SNAP Computation Sheets)

Issuance Month	Amount Received
[REDACTED]	\$192.00

██████████	\$192.00
██████████	\$192.00
██████████	\$192.00
██████████	\$192.00
██████████	\$192.00
██████████	\$192.00
██████████	\$192.00
██████████	\$192.00
██████████	\$192.00

17. The Defendant's SNAP benefits were accessed during the period ██████████ 2018 through ██████████ 2019 via the electronic benefits transfer ("EBT") account. (Exhibit 12: Transaction Report)

18. For the period ██████████ 2019 through ██████████ 2019, the Department determined the Defendant ineligible for benefits under the SNAP because her household income exceeds the SNAP income limit for a household of one. The Department determined the Defendant overpaid \$1,536.00 for the period ██████████ 2019 through ██████████ 2019. Reference chart below and FOF # 16. (Hearing Record)

Issuance Month	Amount Received	Amount Entitled	Overpayment Amount
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
██████████	\$192.00	\$00.00	\$192.00
Totals	\$1,536.00	\$00.00	\$1,536.00

19. The Department searched the Electronic Disqualified Recipient System ("eDRS"), an online query used to search SNAP disqualification records, by the Defendant's name and social security number and found no record of prior disqualifications for the Defendant. (Exhibit 3: eDRS Query)

20. On ██████████ 2022, the Investigation Division issued a W-1448 Notice of Prehearing Interview Food Stamp Program ("Form W-1448") to the Defendant. The W-1448 charged that the Defendant broke the rules under the Food Stamp program, currently known as SNAP and incurred an overpayment totaling \$1,536.00 under the SNAP due to unreported income from the employer. The Department scheduled an appointment for ██████████ 2022 to meet with the Defendant at the regional office to discuss the charge and lists the due date to sign a waiver giving up her right to a hearing as ██████████ 2022. The Department included Form W-1449 Waiver of Disqualification Hearing SNAP Program ("Form W-1449")

- with Form W-1448. (Exhibit 1: Prehearing Interview/Waiver of Disqualification Hearing)
21. Form W-1449 charges the Defendant with an IPV. The notice states, "The Department disqualifies people who break the rules of the program on purpose. A disqualified person cannot receive SNAP benefits until the disqualification ends." The Department intends to disqualify the Defendant for 1 year. The notice informs the Defendant should she sign the waiver, she gives up her right to an administrative disqualification hearing. The notice gives the Defendant options to voluntarily admit to the violation, voluntarily sign a waiver, or exercise her right to an administrative hearing. The notice lists the due date to sign and return the waiver as [REDACTED] [REDACTED] 2022. (Exhibit 1: Prehearing Interview/Waiver of Disqualification Hearing)
 22. On [REDACTED] [REDACTED] 2022, the Defendant telephoned the Investigations Unit to discuss the allegations. The Defendant requested additional time to review the allegations and waiver. The Investigations Unit extended the waiver due date to [REDACTED] [REDACTED] 2022. (Investigator's Testimony)
 23. The Defendant chose to exercise her right to an administrative disqualification hearing. On [REDACTED] [REDACTED] 2022, OLCRAH conducted an administrative disqualification hearing. (Hearing Record)
 24. The Defendant reports her failure to report employment as a mistake and will make restitution as directed. (Defendant's Testimony)
 25. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV when the Defendant failed to report employment on the [REDACTED] [REDACTED] 2019 PRF which she signed on [REDACTED] [REDACTED] 2019 and failed to report her income exceeded the SNAP gross income limit beginning [REDACTED] 2018 through [REDACTED] 2019. (Hearing Record)
 26. The Department seeks to recover \$1,536.00 in overpaid SNAP benefits because the Defendant failed to follow the SNAP rules when she failed to report her employment information on the PRF and failed to report her income exceeded the SNAP gross income limit timely. (Hearing Record)
 27. 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 Department's request for an administrative disqualification hearing. The Department requested an administrative disqualification hearing on [REDACTED] [REDACTED] 2022. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2022.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) provides that the Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. State statute provides as follows:

If a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as conforms to federal regulations, including, but not limited, to, conducting administrative disqualification hearings for cases involving alleged investigation in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

Conn. Gen. Stat. § 17b-88

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

The State agency shall be responsible for investigating any case of alleged intentional Program violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with the procedures in §273.18. The State

agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

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

Federal regulation provides as follows:

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

7 C.F.R. § 273.16(e)(1)

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

3. Federal regulation provides as follows:

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

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

7 C.F.R. § 273.12(a)(1)

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

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

Federal regulation provides as follows:

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

7 C.F.R. § 273.12(a)(5)(v)

Federal regulation provides in pertinent part as follows:

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.

7 C.F.R. § 273.12(a)(2)

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

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

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

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

The Department correctly determined 130% of the FPL equals \$1,316.00 per month.

The Department correctly determined the Defendant’s gross monthly income exceeds the SNAP gross income limit or 130% of the FPL.

Because the Defendant’s income exceeded the SNAP gross income limit in [REDACTED] 2018, the Defendant had until [REDACTED] 2019 to report the change.

The Department correctly determined the Defendant failed to report her gross monthly income exceeded the SNAP gross income limit resulting in a violation of SNAP rules. Refer to FOF #5 and #14 and chart below.

Month	[REDACTED] 2018	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019
Gross	\$2,795.70	\$3,566.89	\$3,058.62	\$3,440.07	\$3,876.31
130% FPL	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00
Month	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019
Gross	\$7,161.47	\$4,653.15	\$3,304.58	\$3,946.51	\$2,788.67
130% FPL	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00	\$1,316.00

4. Federal regulation provides as follows:

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

7 C.F.R. § 273.12(a)(5)(iii)(G)(1)

Federal regulation provides as follows:

Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months, except those households described in §273.12(a)(5)(iii)(A), must file a periodic report between 4 months and 6 months, as required by the State agency. Households in which all adult members are elderly or have a disability with no earned income and are certified for periods lasting between 13 months and 24 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 new employment with the employer on the PRF. The Defendant failed to complete the section “Describe any changes in earned income below,” leaving this section blank. The Department correctly determined the Defendant failed to establish good cause for the omission of employment and income changes on the PRF.

5. Federal regulation provides as follows:

The State agency shall base administrative disqualifications for intentional Program Violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section or on determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification

hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

7 C.F.R. § 273.16(a)(3)

“The hearing authority shall base the determination of intentional Program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional Program violation as defined in paragraph (c) of this section.” 7 C.F.R. § 273.16(e)(6)

Federal regulation provides as follows:

Intentional program violations shall consist of having intentionally:

1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or
2. Committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.

7 C.F.R. § 273.16(c)

The Department correctly determined that the Defendant committed an intentional program violation (IPV) of SNAP regulations because the Defendant withheld the facts she started working for the employer and her household income exceeded the SNAP gross income limit. The Defendant failed to report employment on the PRF which she signed on [REDACTED] 2019. Also, the Defendant failed to report her household income exceeded the SNAP gross income limit by [REDACTED] 2019, 10 days from the date the income exceeded the limit as instructed on the [REDACTED] 2018 NOA as required under SNAP regulations. The Defendant did not report her job with the employer until [REDACTED] 2019 at the renewal of benefits interview, 10-months after she started working. During this 10-month period, the Defendant’s income exceeded the SNAP gross income limit. The Defendant failed to establish good cause for her failure to report new employment to the Department timely which violates SNAP regulations.

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

If the hearing authority rules that the individual has committed an intentional Program violation, the household member must be disqualified in accordance with the disqualification periods and procedures in

paragraph (b) of this section. The same act of intentional Program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16(e)(8)(i)

Federal regulation provides as follows:

Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: For a period of twelve months for the first intentional Program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section.

7 C.F.R. § 273.16(b)(1)(i)

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

7. Federal regulation provides as follows:

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

7 C.F.R. § 273.9(a)

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

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

Federal regulation provides as follows:

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

7 CFR § 273.10(c)(1)(i)

Federal regulation provides as follows:

Income only in month received. (i) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

7 C.F.R. § 273.10(c)(2)(i)

For [REDACTED] ■ 2019 through [REDACTED] ■ 2020, the Department correctly determined the Defendant's countable gross wages. Refer to FOF #5 and #14.

Month	████████	████████	████████	████████	████████	████████	████████	████████
Gross	\$3,058.62	\$3,440.07	\$3,876.31	\$7,161.47	\$4,653.15	\$3,304.58	\$3,946.51	\$2,788.67

8. Federal regulation provides as follows:

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

7 C.F.R. § 273.9(a)

Federal regulation provides as follows:

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

- A. Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.
- B. Subject to FNS approval, any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant, as set forth in Section 401 of P.L. 104-193, and requires participants to have a gross monthly income at or below 200 percent of the Federal poverty level.

7 C.F.R. § 273.2(j)(2)(ii)

income								
= Monthly gross Income	\$3,058.62	\$3,440.07	\$3,876.31	\$7,161.47	\$4,653.15	\$3,304.58	\$3,946.51	\$2,788.67
ECE = 185% FPL	\$1,872.00	\$1,872.00	\$1,872.00	\$1,872.00	\$1,872.00	\$1,872.00	\$1,872.00	\$1,872.00

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

Beginning [REDACTED] 2019 through [REDACTED] 2019, the Department correctly calculated the Defendant's SNAP benefit as \$00.00 because the Defendant's gross household income exceeds the SNAP gross income limit under ECE.

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

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

"Types of Claims: There are three types of claims: Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16." 7 CFR § 273.18(b)(1)

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

11. Federal regulation provides as follows:

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

7 C.F.R. § 273.12(d)

Federal regulation provides as follows:

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

7 C.F.R. § 273.18(c)(1)(i)

The Department incorrectly determined the start of the overpayment claim as ██████████ 2019. Federal regulations state, "for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred." The start of the overpayment claim is ██████████ 2019, the month the act of IPV first occurred. The Defendant's household income exceeded the SNAP gross income limit of \$1,316.00 in ██████████ 2018. The Defendant had until ██████████ 2019 to report this change. The Defendant failed to report her income exceeded the SNAP gross income limit by ██████████ 2019 deadline, therefore the Defendant's committed the IPV as of ██████████ 2019. Additionally, the Defendant failed to report employment on the PRF issued by the Department on ██████████ 2019 with a due date of ██████████ 2019 and signed by the Defendant on ██████████ 2019 as required under simplified reporting SNAP regulations. This failure to report employment on the PRF occurred in ██████████ ██████████

12. Federal regulation provides as follows:

The actual steps for calculating a claim are:

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

7 C.F.R. § 273.18(c)(1)(ii)

The Department correctly determined the Defendant overpaid \$1,536.00 for the period [REDACTED] 2019 through [REDACTED] 2019. However, the Department failed to evaluate the overpayment claim as of [REDACTED] 2019, the month the overpayment claim begins.

Month	Received	Entitled	Overpayment	Subject to Recoupment
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
Totals	\$1,536.00	\$00.00	\$1,536.00	\$1,536.00

DECISION

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

Regarding the Department's request to recover the overpayment claim of 1,536.00 for the period [REDACTED] 2019 through [REDACTED] 2019, the appeal is granted.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Erica Stevenson, Investigator, RO #52

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 Ave., Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The **45** day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than **90** days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or his designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the defendant resides.