

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVE.
HARTFORD, CT 06105-3725

██████████ 2023
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 225438

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for a period of 12 months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by misrepresenting his household composition.

On ██████████ 2023, the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) notified the Defendant of the initiation of the ADH process via certified mail. The notification scheduled the administrative hearing for ██████████, 2023, and outlined the Defendant’s rights for these proceedings.

On ██████████, 2023, the United States Postal Service (“USPS”) delivered the certified mail packet to the Defendant’s address, and he signed for the notification.

On ██████████ 2023, OLCRAH conducted the ADH in accordance with section 17b-88 of the Connecticut General Statutes and Title 7 of the Code of Federal Regulations (“C.F.R”), section 273.16, subsection (e).

The Defendant was not present at the hearing and did not show good cause for failing to appear. The following individuals were present at the hearing:

Justin Michaud, Department's Investigator
Kristin Haggan, Fair Hearing Officer

STATEMENTS OF THE ISSUES

The first issue is whether the Defendant committed an IPV of the SNAP program.

The second issue is whether the Department can disqualify the Defendant from the SNAP program for a period of twelve (12) months.

FINDINGS OF FACT

1. The Defendant is [REDACTED] years old (DOB: [REDACTED]) (*Exhibit 2: Online Application*)
2. The Defendant is currently not receiving SNAP benefits. (*Department's Testimony*)
3. The Defendant has no previous IPV's. (*Department's Testimony*)
4. On [REDACTED], 2022, the Defendant submitted an online application ("ONAP") for SNAP benefits for himself and his two children. The Defendant reported no other household members on the ONAP. (*Exhibit 2*)
5. On [REDACTED], 2022, the Department processed the Defendant's ONAP. The Department completed a phone interview with the Defendant during which he reported that his spouse and the mother of his children, [REDACTED] (the Legally Liable Relative "LLR"), had recently moved out of his home. The Department reviewed the Department of Motor Vehicles ("DMV") interface, which showed the LLR had a valid driver's license with a reported address of [REDACTED], which is the same address as the Defendant. The Department reviewed The Work Number Equifax database which showed two current employers for the LLR, both showing her reported address of [REDACTED]. The Department referred the Defendant's case to the Investigations Division. (*Hearing Summary, Department's Testimony, Exhibit 1: The Work Number Equifax Database, Exhibit 5: DMV Records, Exhibit 8: Email from Department*)
6. The Department's Investigator reviewed property records for the city of [REDACTED] and found that [REDACTED] is a single-family home owned jointly by the Defendant and the LLR. (*Department's Testimony, Exhibit 6: Property Records*)
7. On [REDACTED], 2022, the Department's Investigator conducted a home visit to the Defendant's address of [REDACTED]. The LLR answered the door and stated that she was watching their child while the Defendant was at work. The LLR stated that she does not live with the Defendant. The LLR stated that she is living in [REDACTED], but she could not provide an actual residential address. She informed the Investigator that she travels back and forth between [REDACTED] and [REDACTED]

staying overnight at the Defendant's house on the weekends, and sometimes during the week. (*Department's Testimony*)

8. On [REDACTED] 2022, the Department added the LLR and her income to the Defendant's pending SNAP application. The Department determined the household to be over the income limit and denied the SNAP. (*Department's Testimony*)
9. On [REDACTED] 2023, the Department's Investigator mailed the Defendant a W-1447 ADH Process and Rights Information Sheet, a W-1448 Notice of Prehearing Interview, and a W-1449 Waiver of Disqualification Hearing Form. The Investigator scheduled the Pre-ADH interview for [REDACTED], 2023, at [REDACTED]. The due date for the Defendant to sign and return the waiver form was [REDACTED], 2023. (*Hearing Summary, Department's Testimony, Exhibit 3: ADH Packet*)
10. On [REDACTED], 2023, the Defendant did not appear for the Pre-ADH interview. (*Department's Testimony*)
11. As of the date of the ADH, the Investigator had not received the signed ADH Waiver Form back from the Defendant. (*Department's Testimony*)
12. The issuance of this decision is timely under Title 7 Section 273.16(e)(20)(iv) of the Code of Federal Regulations ("C.F.R.") which requires that the agency issue a decision within 90 days of the notice of the initiation of the ADH process. On [REDACTED], 2023, OLCRAH mailed the Defendant notification of the initiation of the ADH process, therefore, this decision is due by [REDACTED], 2024.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of 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.

Section 17b-88(2) of the Connecticut General Statutes provides 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 shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

7 C.F.R. § 273.16(e) provides that the State agency shall conduct administrative

disqualification hearings for individuals accused of an Intentional Program Violation.

The Department has the authority under state statute and federal regulation to initiate and hold Administrative Disqualification Hearings.

2. 7 C.F.R. § 273.16 (e)(3) provides for the advance notice of the hearing.

(i) The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either first class mail or certified mail return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first-class mail and is returned as undeliverable, the hearing may still be held.

(ii) If no proof of receipt is obtained, a timely (as defined in paragraph (e)(4) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall establish the circumstances in which non-receipt constitutes good cause for failure to appear. Such circumstances shall be consistent throughout the State agency.

(iii) The notice shall contain at a minimum: (A) The date, time, and place of the hearing; (B) The charge(s) against the individual; (C) A summary of the evidence, and how and where the evidence can be examined; (D) A warning that the decision will be based solely on the information provided by the State agency if the individual fails to appear at the hearing.

On [REDACTED], 2023, OLCRAH mailed the Defendant notification of the initiation of the ADH process via certified mail. On [REDACTED] 2023, the United States Postal Service (“USPS”) delivered the certified mail packet to the Defendant’s address, and he signed for the notification. The packet that was mailed to the Defendant contained the following information: the date, time, and place of the hearing; a summary of the Department’s charges against the Defendant; a summary of the evidence, and how and where the Defendant can examine the evidence; a warning that the decision will be based solely on the information provided by the State agency if the Defendant fails to appear at the hearing.

The Defendant did not have good cause for failing to appear for the ADH scheduled at the [REDACTED] Regional Office.

3. 7 C.F.R. § 273.16 (f) provides for waived hearings. Each State agency shall have the option of establishing procedures to allow accused individuals to waive their rights to an administrative disqualification hearing. For State agencies which choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures shall conform with the requirements outlined in this section.

The Department correctly notified the Defendant of his right to waive the ADH. The Defendant did not return the signed waiver to the Department.

4. 7 C.F.R. § 273.1(a) provides for household concept and states that a household is composed of one of the following individuals or group of individuals unless otherwise specified in paragraph (b) of this section.

- (1) An individual living alone;
- (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
- (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. § 273.1(b)(1) provides for required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

- (i) Spouses;
- (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or stepparent(s);

The Department correctly determined that the Defendant's household consists of himself, the LLR, and their two mutual children.

5. 7 C.F.R. § 273.16 (c) provides for the definition of Intentional Program Violation as follows: For purposes of determining through administrative disqualification hearings whether a person has committed an IPV, IPV's shall consist of having intentionally:

- (1) made a false or misleading statement, or misrepresented, concealed, or withheld facts.

7 C.F.R. § 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, an Intentional Program Violation.

Based on clear and convincing evidence the Department correctly determined that the LLR was residing in the Defendant's home at the time of his SNAP application.

The Department correctly determined that the Defendant's deliberate misrepresentation of his household composition is an IPV.

6. 7 C.F.R. § 273.16 (a) provides for administrative responsibility. (1)The State agency shall be responsible for investigating any cases of alleged Intentional Program Violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or a 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 to prosecution a case involving an over issuance caused by a suspected act of Intentional Program Violation, the State agency shall take action to collect over issuance by establishing an inadvertent household error claim against the household in accordance with 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 formerly 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 or 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 of the current eligibility of the individual.

The Department did not refer the Defendant's case for civil or criminal prosecution.

7. 7 C.F.R. § 273.16(a)(3) provides 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(e)(8)(i) provides for 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(b)(1)(i) provides for disqualification penalties. 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 the 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.

The Department is correctly seeking to disqualify the Defendant from participating in the SNAP program for a period of twelve (12) months as this is his first IPV.

DISCUSSION

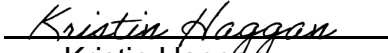
The Department has found through a home visit and collateral contacts that the LLR was residing with the Defendant at the time of his SNAP application on [REDACTED], 2022. The Defendant deliberately omitted his spouse from his SNAP application.

When the Investigator conducted the home visit to the Defendant's residence, the LLR was there and admitted to the Investigator that she stays there on the weekends and some nights during the week. The LLR could not provide any other residential address for herself to the Investigator.

DECISION

Regarding whether the Defendant committed an IPV under the SNAP, the Defendant is **GUILTY**.

Regarding the Department's request to disqualify the Defendant from SNAP and impose a first-offense SNAP penalty for twelve months due to an IPV, the Department's request is **GRANTED**.


Kristin Haggan
Fair Hearing Officer

CC: OLCRAH.QA.DSS@CT.gov
Justin Michaud, Fraud Investigator

RIGHT TO APPEAL

The defendant has the right to appeal this decision to the 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 to 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 following §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.