

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

[REDACTED]  
Signature Confirmation

Case ID # [REDACTED]  
Client ID # [REDACTED]  
Request # 195262

**ADMINISTRATIVE DISQUALIFICATION HEARING**  
**NOTICE OF DECISION**  
**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED], the Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of [REDACTED] (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for one (1) year. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") because of the Defendant's misrepresentation of his household's composition. This is the Defendant's first IPV offense in the SNAP program.

On [REDACTED], the Department rescheduled the administrative hearing due to a scheduling conflict.

On [REDACTED], OLCRAH issued a notice scheduling the Administrative Disqualification Hearing for [REDACTED].

On [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the Defendant of the initiation of the ADH process via certified mail delivery to his address in Hartford, CT. The Defendant signed for the certified mail per USPS tracking. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for [REDACTED].

On [REDACTED] the Department and the Defendant did not appear for the Administrative Disqualification Hearing

On [REDACTED] OLCRAH issued a notice rescheduling the Administrative Disqualification Hearing for [REDACTED].

On [REDACTED] in accordance with Sections § 17b-88 of the Connecticut General Statutes ("Conn. Gen. Stat.") and Title 7, § 273.16 of the Code of Federal Regulations ("C.F.R.") the OLCRAH held an Administrative Disqualification Hearing.

The Defendant did not appear at the hearing and did not request a postponement of the proceedings for good cause.

The following individuals were present at the hearing:

Marc Blake, Department's Representative  
Shawn P. Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

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

The second issue is whether the Department's proposal to disqualify the Defendant from participating in the SNAP for one year.

**We will send your translated decision in SPANISH separately.  
Le enviaremos su decisión traducida en español por separado.**

### **FINDINGS OF FACT**

1. On [REDACTED], the Defendant submitted a W-1ES application for SNAP benefits for a household of two, including himself and his daughter, [REDACTED]. The Appellant signed the form which stated, "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 any information I give." (Exhibit 4: W-1ES Application, [REDACTED])
2. On [REDACTED], the Department received a fraud referral alleging the Defendant did not report that the mother of his child was living with him at [REDACTED]. (Hearing Summary; Exhibit 1: Update Referral)

3. On [REDACTED], the Defendant completed the telephone interview with the Department and reported he only lives with his daughter and that the mother of his child is not in the home. (Hearing Summary, Exhibit 2: Case notes, [REDACTED])
4. On [REDACTED], the Department conducted an unannounced home visit to the Defendant's address and observed listed on the mailbox was the names [REDACTED], and [REDACTED]. The Defendant was asked who lives with him at his address. The Defendant said he lives with [REDACTED] and their common child [REDACTED]. The Defendant said they were not married but they do live together. The Defendant was informed due to living under the same roof and having a child in common with the child's mother, she is a mandatory inclusion and would have to be added to his SNAP application. They are considered an intact family. (Hearing Summary, Exhibit 7: FRED INVESTIGATION WORK SHEET, [REDACTED], Exhibit 3: Photograph of mailbox showing names of Defendant and minor child)
5. On [REDACTED], the Department mailed the Defendant a W-1448, Notice of Prehearing Interview. The notice stated that the Department believes you broke the rules of the SNAP program on purpose. The Department scheduled an appointment with the Defendant on [REDACTED], at 1 [REDACTED] to discuss the proposed IPV. (Exhibit 13: W-1448, Notice of Prehearing Interview)
6. On [REDACTED], the Department sent the Defendant a W-1449, Waiver of Disqualification Hearing SNAP Program. The Waiver stated the Department believes the Defendant broke the rules of the SNAP program on purpose, and that the Defendant may be disqualified from the program for one year due to this intentional program violation. The form states by signing the waiver the Defendant gives up his right to an administrative disqualification hearing. (Exhibit 8: DSS, Waiver of Disqualification, SNAP Program)
7. The Defendant did not attend the pre-hearing interview and did not sign the Waiver of Disqualification Hearing. (Hearing Record)
8. The Defendant was not present for the hearing. (Hearing Record)
9. The Defendant was never issued SNAP benefits. (Department's testimony)
10. The Defendant has no prior SNAP Intentional Program Violation penalties. (Exhibit 9: Electronic Disqualified Recipient System Query)
11. As of [REDACTED], the Defendant has not contacted the Department about the ADH either through written or verbal communications. (Hearing Record)

12. 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 the Department issue a decision within 90 days of the initiation of the ADH process. On [REDACTED], the OLCRAH mailed the Defendant notification of the initiation of the ADH process. The hearing record remained open for an additional eighty-seven days; therefore, this decision is due no later than [REDACTED].

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Connecticut General Statutes § 17b-88 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 (2) shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.
3. 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.**

4. 7 C.F.R. § 273.16 (a) provides for administrative responsibility. (1) The State agency shall be responsible for investigating any case of an 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 Defendant's case has not been referred for civil or criminal prosecution.**

5. 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.

**The Defendant did acknowledge receipt of the ADH notice that included a summary of the Department's charges.**

6. 7 C.F.R. §273.16 (e) (4) provides for the scheduling of the hearing. The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household

member being represented. Even though the household member is not represented, the hearing officer is required to carefully consider the evidence and determine if an intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid, and the State agency shall conduct a new hearing. The hearing officer who originally ruled on the case may conduct the new hearing. In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

**The Defendant did not have good cause for not appearing for the ADH scheduled at the Hartford Regional Office.**

7. 7 C.F.R. § 273.1(b)(1) provides for Special household requirements and states that:
  - (1) 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 step-parent(s); and (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

**The Department correctly determined that the Defendant was not eligible for SNAP benefits as a household of two. The Defendant misrepresented the facts on his [REDACTED], application that the mother of his child was not living in his home when in fact she was.**

8. 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; or
  - (2) Committed any act that constitutes a violation of the SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking SNAP benefits or EBT cards.

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.

**The Defendant's deliberate misstatement concerning his household composition constitutes an Intentional Program Violation.**

**The hearing record clearly and convincingly established that the Defendant intentionally misrepresented, concealed, or withheld facts to the Department.**

9. 7 C.F.R. § 273.16 (b) provides for disqualification penalties and indicates (1) 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.

7 C.F.R. § 273.16 (e) (8) (i) provides that 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 procedure in paragraph (b) of this section. The same act of intentional Program violation repeated over a period must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16 (e) (8) (ii) provides that no further administrative appeal procedure exists after an adverse State level hearing. The determination of an intentional Program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

7 C.F.R. § 273.16 (e) (8) (iii) provides once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

**The Department is correct to seek the disqualification of the Defendant from participating in the SNAP for one year.**

- 10.7 C.F.R. § 273.16 (b) (12) provides that even though the individual is disqualified, the household, as defined in § 273.1, is responsible for making restitution for any overpayment. All IPV claims must be established and collected in accordance with the procedures set forth in § 273.18.

7 C.F.R. § 273.18 (a) provides that (1) A recipient claim is an amount owed because of: (i) Benefits that are overpaid.

7 C.F.R. § 273.18 (a) (2) provides that this claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

7 C.F.R. § 273.18 (a) (4) provides that the following are responsible for paying a claim: (i) Each person who was an adult member of the household when the overpayment or trafficking occurred.

7 C.F.R. § 273.18 (b) provides for types of claims. There are three types of claims: (1) Intentional Program violation (IPV) any claim for an overpayment or trafficking resulting from an individual committing an IPV. (2) Inadvertent household error ("IHE") defined as any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household; (3) Agency error ("AE") defined as any claim for an overpayment caused by an action or failure to take action by the State agency.

**The Department correctly determined that there's no overpayment as the result of an IPV since the Defendant was not issued any SNAP benefits.**

### **DECISION**

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

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

*Shawn P. Hardy*

Shawn P. Hardy  
Hearing Officer

Cc: [OLCRAH.QA.DSS@ct.gov](mailto:OLCRAH.QA.DSS@ct.gov)

Josephine Savastra, SSOM, RO #10 Hartford  
Lindsey Collins, SSOM, RO #10 Hartford  
Marc Blake, Investigator, RO #10 Hartford

**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.