

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

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

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

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek the disqualification of ██████████ (the “Defendant”) from participating in the Supplemental Nutrition Assistance Program (“SNAP”) for a period of ten (10) years. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”) because he received concurrent SNAP benefits from two states. In addition, the Department seeks to recover the overpaid SNAP benefits of \$1600.00.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) notified the Defendant of the initiation of the ADH process via certified mail and scheduled an in person hearing for ██████████, 2022, at 10:00 AM. The notification outlined a Defendant's rights in these proceedings.

On ██████████, 2022, the Defendant signed for the certified letter per USPS tracking.

On ██████████, 2022, in accordance with Sections § 17b-88 of the Connecticut General Statutes 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 for the hearing. The Defendant did not show good cause for failing to appear. The following individuals were present at the hearing:

LaShea Hall, Social Services Investigator, Department’s Representative
Joseph Davey, Administrative Hearing Officer

The hearing record remained open to allow the Department time to submit additional information. All additional exhibits were received by [REDACTED], 2022, and the hearing record closed accordingly.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV of the SNAP and is subject to a ten (10) year disqualification penalty.

The second issue to be decided is whether the Department's proposal to recoup a SNAP overpayment of \$1600.00 is correct.

FINDINGS OF FACT

1. The Defendant was a recipient of the SNAP in the State of Connecticut for a household of one (1). (Exhibit 20: SNAP Cash-Search/Summary printout, Department's testimony)
2. The Defendant has no prior IPV's. (Exhibit 13: Electronic Disqualification Recipient System ["EDRS"] printout, Department's testimony)
3. On [REDACTED], 2021, the Defendant completed and electronically signed an Online Application for SNAP benefits. By signing the Online Application the Defendant attested that all of the information was true and complete. (Exhibit 4: Online SNAP Application dated [REDACTED], Exhibit 21: Case Notes from [REDACTED]-[REDACTED], Department's testimony)
4. The Defendant reported on the [REDACTED], 2021 Online Application that he resided at [REDACTED] in [REDACTED], Connecticut. (Exhibit 4)
5. On [REDACTED], 2021, the Defendant provided a landlord letter verifying he resided at [REDACTED], [REDACTED] in [REDACTED], Connecticut. (Exhibit 21, Exhibit 22: Landlord Letter dated [REDACTED])
6. On [REDACTED], 2022, the department granted the Appellant's SNAP benefits effective [REDACTED], 2021. (Exhibit 21)
7. On or about [REDACTED], 2021, the Defendant was last informed of the SNAP reporting requirements and penalties. (Department's testimony)
8. On [REDACTED], 2022, the Department's Investigations Unit received a Public Assistance Reporting Information System ("PARIS") Interstate CFI Disposition Form verifying that the Defendant was receiving SNAP benefits in the state of Massachusetts. The PARIS system match was made using the Defendant's Social Security number and date of birth. The match showed the Defendant

began receiving SNAP benefits in Massachusetts on [REDACTED], 2021. (Exhibit 1: PARIS Interstate CFI Disposition Form, Hearing Record)

9. On [REDACTED], 2022, the Department's Investigations Unit sent a fax to the Massachusetts Department of Transitional Assistance Program Integrity Unit ("DTAPIU") requesting that they verify the Defendant's SNAP start and end dates in the state of Massachusetts. (Exhibit 5: Fax to MA Department of Transitional Assistance Program Integrity Unit dated [REDACTED])
10. On [REDACTED], 2022, the Department's Investigations Unit received an email response from the DTAPIU in response to the [REDACTED], 2022, faxed inquiry. The email verified that the Defendant began receiving SNAP benefits in Massachusetts on [REDACTED], 2021, and that they were closed [REDACTED], 2022, when the DTAPIU verified the Defendant was actively receiving SNAP benefits in Connecticut. (Exhibit 6: Email from MA Department of Transitional Assistance Program Integrity Unit, Hearing Record)
11. On [REDACTED], 2022, the DTAPIU submitted the Defendant's Massachusetts issued Electronic Benefit Transfer ("EBT") card history. The Defendant used the Massachusetts EBT card between [REDACTED], 2021, and [REDACTED], 2022. All of transactions on the card were made in the State of Connecticut except for a [REDACTED], 2022, transaction which occurred in the Bronx, New York. (Exhibit 6, Exhibit 7: MA SNAP EBT transactions from [REDACTED]-[REDACTED], Department's testimony)
12. The Defendant used his Connecticut issued EBT card to complete SNAP transactions between [REDACTED], 2021, and [REDACTED], 2022. (Exhibit 8: CT SNAP EBT transactions from [REDACTED]-[REDACTED])
13. On [REDACTED], 2022, a Suspected Intentional Program Violation ("SIPV") was created in the Department's Impact eligibility system. (Exhibit 2: Impact SIPV referral # [REDACTED] created by Investigator on [REDACTED])
14. The Defendant used both his Massachusetts and Connecticut issued EBT cards in the months of [REDACTED] 2021, [REDACTED] 2021, [REDACTED] 2022, [REDACTED] 2022, [REDACTED] 2022, [REDACTED] 2022, and [REDACTED] 2022. (Exhibit 7, Exhibit 8, Department's testimony)
15. The Defendant received SNAP benefits from the state of Connecticut totaling \$1600.00 for the months of [REDACTED] 2021 (\$100.00,) [REDACTED] 2021 (\$250.00,) [REDACTED] 2022 (\$250.00,) [REDACTED] 2022 (\$250.00,) [REDACTED] 2022 (\$250.00,) [REDACTED] 2022 (\$250.00,) and [REDACTED] 2022 (\$250.00) (Exhibit 8, Department's testimony)
16. The Department concluded the Defendant committed an IPV by intentionally concealing concurrent receipt of SNAP benefits in both Connecticut and

Massachusetts and seeks to disqualify him from participation in the SNAP for a period of ten (10) years. In addition, the Department wishes to recoup the \$1600.00 in SNAP benefits the Defendant received from the state of Connecticut while he was also receiving SNAP benefits from the state of Massachusetts. (Hearing Record, Department's testimony)

17. On [REDACTED], 2022, the Department mailed the Defendant a Waiver of Disqualification letter ["W-1449"]. The return date for the W-1449 was [REDACTED], 2022. (Exhibit 11: W-1449 with due date of [REDACTED], Hearing Record)
18. The Defendant did not sign or return the form. (Department's testimony)
19. An Administrative Disqualification Hearing was scheduled for [REDACTED], 2022. (Exhibit 15: Notice of Administrative Hearing dated [REDACTED])
20. On [REDACTED], 2022, the Administrative Hearing Officer assigned to the scheduled [REDACTED], 2022, hearing, emailed the Department's investigator to inform her that per the United States Postal Service ("USPS"), the Defendant was no longer residing at [REDACTED] in [REDACTED], Connecticut and that there was no valid address for the Defendant. (Exhibit 16: Email from Administrative Hearing Officer dated [REDACTED], Hearing Record)
21. On or about [REDACTED], 2022, the Department withdrew the Administrative Disqualification Hearing scheduled for [REDACTED], 2022. (Hearing Record)
22. On [REDACTED], 2022, the Department's investigator contacted the Florida Department of Children and Families who confirmed that the client is residing at [REDACTED] in [REDACTED], Florida. (Exhibit 17: Email from State of Florida dated [REDACTED])
23. On [REDACTED], 2022, the Department mailed a new Prehearing Interview letter ["W-1448"] and Waiver of Disqualification letter ["W-1449"] to the Defendant's new address of [REDACTED] in [REDACTED], Florida. The W-1448 scheduled a Prehearing Interview for the Defendant on [REDACTED], 2022, at 10:00AM. (Exhibit 18: W-1448/W1449 from [REDACTED], Department's testimony)
24. The Defendant did not appear for the scheduled Prehearing Interview on [REDACTED], 2022, did not contact the Department regarding a reschedule and did not sign the Waiver of Disqualification. (Department's testimony)
25. On [REDACTED], 2022, another W-1448 was sent scheduling a Prehearing Interview for the Defendant on [REDACTED], 2022, at 10:00AM. (Exhibit 18)
26. The Defendant did not appear for the scheduled Prehearing Interview on [REDACTED], 2022 and did not contact the Department regarding a reschedule. (Department's testimony)

27. On [REDACTED], 2022, the Defendant's SNAP benefits were closed. (Exhibit 20, Exhibit 21)
28. The Defendant was not present at the Administrative Disqualification Hearing on [REDACTED], 2022 and did not show good cause for failing to appear. (Hearing Record)
29. 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 () days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled. The OLCRAH notified the Defendant of the initiation of the ADH process via certified mail on [REDACTED], 2022. This decision is therefore due no later than [REDACTED], 2023. However, the hearing record was held open () day for the Department to provide additional information, making this decision due no later than [REDACTED], 2023.

CONCLUSIONS OF LAW

1. Connecticut General Statutes (Conn. Gen. Stat.) § 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.

The Department has the authority to administer the SNAP.

2. Conn. Gen. Stat. § 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.

The Department has the authority to recoup SNAP benefits.

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 to conduct Administrative Disqualification Hearings.

4. 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.

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 was properly notified of the ADH on [REDACTED], 2022. On that date, a packet containing the date, time, and place of the hearing, a summary of the charges against the Defendant, a summary of the evidence (including and how and where it can be examined,) as well as 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 was mailed to the Defendant. The Defendant signed for the packet on [REDACTED], 2022.

The Defendant failed to appear for the scheduled ADH on [REDACTED], 2022 and did not display good cause for failing to appear.

5. 7 C.F.R. § 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 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. The ADH was properly initiated by the Department.

6. 7 C.F.R. § 273.16(a)(3) provides that 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 individual 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.

The Defendant did not sign or return the Waiver of Disqualification Hearing form (W-1449) the Department sent to him on [REDACTED], 2022.

7. 7 C.F.R. § 273.16(c) provides the *Definition of intentional Program violation*. 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(e)(6) provides the *Criteria for determining intentional Program violation*. 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 as defined in paragraph (c) of this section.

The Department established with clear and convincing evidence that the Defendant willfully committed an IPV by intentionally concealing his concurrent receipt of SNAP benefits in Massachusetts and Connecticut.

The Defendant applied for SNAP in both Connecticut and Massachusetts on the same day which demonstrates a clear intent to mislead and conceal his whereabouts. Further, the Defendant intentionally and willingly used both his Massachusetts issued EBT card and SNAP benefits and his Connecticut issued EBT card and SNAP benefits concurrently over the course of nearly seven (7) months which clearly constitutes both intent and commission of an IPV.

8. 7 CFR 273.16(b) provides for *Disqualification penalties*. (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: (5) Except as provided under paragraph (b)(1)(iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.

7 CFR 273.16(e)(8)(i)(ii)(iii) provides for the *Imposition of disqualification penalties*. (i) 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. (ii) No further administrative appeal procedure exists after an adverse State level hearing. The determination of 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. (iii) 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 correctly determined that the disqualification period for the Defendant is ten (10) years.

9. 7 CFR 273.16(b)(12) provides that even though only the individual is disqualified, the household, as defined in § 273.1, is responsible for making restitution for the amount of any overpayment. All intentional Program violation claims must be established and collected in accordance with the procedures set forth in § 273.18.

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

7 C.F.R. § 273.18 (a) (2) provides that a claim for overpaid benefits represents a Federal debt and that the State agency must develop an adequate plan for establishing and collecting claims.

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. An IPV is defined in § 273.16. (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.

7 CFR 273.18(a)(4)(i) 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.

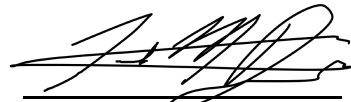
The Department correctly determined that the Defendant is responsible to make restitution for the SNAP benefits he received during the IPV period.

10.7 CFR 273.18(c)(2)(i)(ii)(iii) provides for *Calculating the claim amount for Trafficking related claims*. Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by: (i) The individual's admission; (ii) Adjudication; or (iii) The documentation that forms the basis for the trafficking determination.

The Department correctly determined the Defendant received \$1600.00 in SNAP benefits during the IPV period.

DECISION

1. The Defendant is **GUILTY** of committing a SNAP Intentional Program Violation for willfully concealing his receipt and use of SNAP benefits from the state of Massachusetts while also receiving and utilizing SNAP benefits in Connecticut.
2. The Department is authorized to disqualify the Defendant from participation in the SNAP for a period of ten (10) years and to seek recovery of the full \$1600.00 proposed for recoupment.



Joseph Davey
Administrative Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
LaShea Hall, Social Services Investigator, DSS, New Britain Regional Office

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.