

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

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

Case Id # ██████████
Client Id # ██████████
Request # 206985
SNAP EDG # ██████████

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the "Department") submitted an Administrative Disqualification Hearing ("ADH") claim to the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") seeking to prohibit ██████████ (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for one (1) year. The Department alleged the Defendant committed an Intentional Program Violation ("IPV") by failing to report to the Department when his income exceeded 130 percent of the Federal Poverty Level ("FPL") as required by federal regulation. The Department seeks to recover \$835.00 in overpaid SNAP benefits. This would be the Defendant's first IPV offense in the SNAP.

On ██████████ 2022, OLCRAH mailed the Defendant a notification of the initiation of the ADH process via certified mail scheduling the ADH for ██████████ 2022.

On ██████████ 2022, the Defendant accepted the delivery of the ADH notice.

On ██████████ 2023, 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.") OLCRAH held an Administrative Disqualification Hearing.

The following individuals were present at the hearing:

Jamie McBride, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUES

The issues are whether the Defendant committed an IPV of the SNAP program, is subject to disqualification from the program for 12 months, and if the resulting overpayment of benefits is subject to recovery.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department granted the Defendant SNAP assistance effective [REDACTED] 2021, through [REDACTED] 2022. The notice indicated that the Defendant must report to the Department no later than the 10th day of the following month following the month of change when his household's total gross income exceeds \$2,871.00. (Exhibit 5: Notice)
2. For the IPV period in question, One Hundred (100) percent of the Federal Poverty Level ("FPL") for was \$2,209.00, 130 percent of the FPL was \$2,781.00, and 185 percent of the FPL was \$4,087.00. (Record)
3. On [REDACTED] 2022, the Defendant started employment with [REDACTED] doing business as [REDACTED]. (Exhibit 7: Work Number printout)
4. On [REDACTED] 2022, the Defendant received his first paycheck from [REDACTED]. (Exhibit 7)
5. The Defendant's gross income from [REDACTED] 2022 through [REDACTED] is detailed below:

Month	Gross Income
[REDACTED] 2022	\$3,123.10
[REDACTED] 2022	\$2,831.00
[REDACTED] 2022	\$3,149.10
[REDACTED] 2022	\$2,431.80
[REDACTED] 2022	\$4,886.70
[REDACTED] 2022	\$3,296.30
[REDACTED] 2022	\$3,420.80

(Exhibit 7; Exhibit 8: Calculation sheet)

6. From [REDACTED] 2022 through [REDACTED] 2022, the Defendant received \$853.00 monthly in SNAP or \$2,559.00 total (\$853.00 * 3 months). This amount does not reflect Pandemic or child lunch issuances received by the household. (Exhibit 6: Benefit History)
7. On [REDACTED], 2022, the Department received the Defendant's renewal of eligibility. The Defendant did report his employment with [REDACTED] on his renewal but added an employment end date of [REDACTED] 2020. (Exhibit 6: Online renewal pages 10 and 11)

8. On ██████████ 2022, the Department's representative determined that the Defendant was overpaid \$835.00 in SNAP for ██████████ 2022. The Department did not calculate a SNAP overpayment for any prior months. The Department's investigator sent the Defendant a SNAP Notice of Prehearing Interview ("W-1448") scheduling an office appointment for ██████████ 2022, at 11:00 am to discuss the charge of failure to report income. Also included in the mailing was a Waiver of Disqualification Hearing ("W-1449) that informed the Defendant that if he agreed to the charges he must sign and date the form and then return the W-1449 by ██████████ 2022. (Exhibit 4: W-1448/W-1449)
9. The Defendant did not sign or return the W-1448 and W-1449. (Department's representative testimony)
10. The Defendant has not previously been subject to a disqualification penalty. (Exhibit 1: eDRS; Record)

CONCLUSIONS OF LAW

1. 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.

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.

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(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 outlines in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an

individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an over-issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over issuance by establishing an inadvertent household error claim against the household in accordance with the procedures in § 273.18. The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period 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 after 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.

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's case has not been referred for civil or criminal prosecution.

The Defendant accepted the delivery of the ADH notice but did not attend the proceedings.

3. 7 C.F.R. § 273.9 (a) provides that participation in the Program shall be limited to those households whose income incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households that contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. 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 the Food Stamp Program. Households that 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 levels established in Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

7 C.F.R. § 273.2(j) (2) (ii) (A) provides the state agency, at its option, may extend categorically eligibility to the following households only if doing so will further the purposes of the Food Stamp Act. (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 determined to confer categorical eligibility.

The Defendant's household does not contain an elderly or disabled individual and therefore is subject to a gross income test.

4. 7 C.F.R. § 273.9 (b) (1) provides the definition of earned income shall include: (i) All wages and salaries of an employee.

7 C.F.R. § 273.9 (b) (2) provides the definition of unearned income shall include but not limited to: (i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in §271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household) unless the vendor payment is specifically exempt from consideration as countable income under the provisions of paragraph (c)(1) of this section. Assistance payments from programs that require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.

7 C.F.R. § 273.9 (b) (2) (ii) provides that annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in [§ 272.12](#); old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

The Department correctly determined that the Defendant's earnings must be used when calculating the Defendant's SNAP benefits.

5. 7 C.F.R. § 273.12(a)(5) provides the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section. The following requirements are applicable to simplified reporting systems: (i) Included households. The State agency may include any household certified for at least 4 months within a simplified reporting system. (ii) Notification of simplified reporting requirement. At the initial certification, recertification and when the State agency transfers the households to simplified reporting, the State agency shall provide the household with the following: (A) A written and oral explanation of how simplified reporting works; (B) For households required to submit a periodic report, a written and oral explanation of the reporting requirements including: (1) The additional changes that must be addressed in the periodic report and verified. (iii) Periodic report. (A) Exempt households. The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or have a disability with no earned income.

The Defendant's household is subject to simplified reporting requirements.

6. 7 C.F.R. § 273.12(a)(5)(v) provides for reporting when gross income exceeds 130 percent of the poverty level. A household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether 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.

See the table below:

Month	Gross Income	130% FPL
██████████ 2022	\$3,123.10	\$ 2,871.00
██████████ 2022	\$2,831.00	\$ 2,871.00
██████████ 2022	\$3,149.10	\$ 2,871.00
██████████ 2022	\$2,431.80	\$ 2,871.00
██████████ 2022	\$4,886.70	\$ 2,871.00
██████████ 2022	\$3,296.30	\$ 2,871.00
██████████ 2022	\$3,420.80	\$ 2,871.00

The Defendant's gross income for ██████████ 2022 exceeded 130 percent of the FPL of \$2,871.00 for a household of four.

7. 7 C.F.R. § 273.16(d) provides for notification to applicant households. The state agency shall inform the household in writing of the disqualification penalties for intentional program violation each time it applies for Program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

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. (G) A listing of the individual's rights as contained in [§ 273.15\(p\)](#);

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 whether 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.

On [REDACTED] 2022, the Department sent the ADH notice by certified mail that included a summary of the Department's charges and the date and time of the ADH.

On [REDACTED] 2022, the Defendant acknowledged receipt of the ADH notice sent by certified mail on [REDACTED] 2022.

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

The Defendant did not sign or return the disqualification consent agreement.

The Department properly informed the Defendant of the penalties for an IPV during the application and recertification process.

8. 7 C.F.R. § 273.16(c) defines an IPV 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 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 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 correctly determined the Defendant committed, or intended to commit, an IPV as defined in 7 C.F.R. § 273.16(c) under the SNAP by making a false or misleading statement, and misrepresenting, concealing, or withholding facts regarding his income. The hearing record established clear and convincing evidence that the Defendant purposefully committed an IPV.

9. 7 C.F.R. § 273.16(b)(1) provides that 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 intention Program violation repeated over a period must not be separated so that separate penalties can be imposed.

The Defendant is subject to a SNAP disqualification penalty for one year since he is guilty of committing an IPV based on misrepresenting his income situation when he failed to report once his income exceeded 130% of the FPL.

10. 7 C.F.R. § 273.18(a) provides that (1) A recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined in 7 C.F.R. 271.2.

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 (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 act by the State agency.

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.

The Department correctly determined the SNAP overpayment claim as an IPV as noted in the Conclusion of Law 8.

11. 7 C.F.R. § 273.18(c) provides for calculating the claim amount (1) Claims not related to trafficking. (i) 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 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) (ii) provides for the actual steps for calculating a claim. (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. (C) subtract the correct amount of benefits from the benefits received. The answer is the amount of the overpayment.

12. The Defendant's [REDACTED] 2022 SNAP benefit is computed as follows:

SNAP BENEFIT CALCULATION	
INCOME	
Earned Income	
Defendant	\$3,420.80
Total Earned Income	\$3,420.80
	\$3,420.80
Less standard deduction	<u>-\$184.00</u>
Adjusted gross income	\$3,236.80
SHELTER COSTS	
Rent	\$600.00
SUA	\$783.00
Total shelter costs	\$1,383.00
SHELTER HARDSHIP	
Shelter costs	\$1,383.00
Less 50% of adjusted gross income	<u>-\$1,618.40</u>
Total shelter hardship	\$0.00 (Cannot exceed \$597 unless elderly or disabled)
NET ADJUSTED INCOME	
Adjusted gross income	\$3,236.80
Less shelter hardship	<u>-\$0.00</u>
Net Adjusted Income (NAI)	\$3,236.80
BENEFIT CALCULATION	
Thrifty Food Plan for four persons	\$835.00
Less 30% of NAI	<u>-\$971.04</u>
SNAP award	\$0.00

The Defendant is ineligible for SNAP for [REDACTED] 2022.

13. See the below chart for the Department's SNAP overpayment computation:

Month	Issued	Entitled	Overpayment
[REDACTED] 2022	\$ 835.00	\$ 0.00	\$ 835.00

The Department correctly determined that an \$835.00 SNAP overpayment occurred for [REDACTED] 2022.

14. 7 C.F.R. §273.18 (a) (1) provides for claims against households and provides that a recipient claim is an amount owed because of: Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

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 claims following these regulations.

The Department was correct when it determined that the Defendant was overpaid SNAP benefits and that he must repay them.

The Department is permitted to seek recoupment of \$835.00 from the Defendant due to an IPV.

15. 7 C.F.R. § 273.16(e)(2) (iv) provides that within 90 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 State agency shall conduct the hearing, arrive at a decision, and notify the household member and local agency of the decision. The household member or representative is entitled to a postponement of the scheduled hearing if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. However, the hearing shall not be postponed for more than a total of 30 days and the State agency may limit the number of postponements to one. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

The issuance of this decision is timely as defined in 7 C.F.R. § 273.16. The Department notified the Defendant in writing of the hearing on [REDACTED] 2022, and held the administrative hearing on [REDACTED] 2023, with this decision due no later than [REDACTED] 2023.

DECISION

The Defendant is guilty of committing his first SNAP IPV for misrepresenting the circumstances of his household's income. This is a SNAP overpayment caused by a household error and is subject to recovery.

The Department is authorized to seek restitution of \$835.00 from the Defendant.

Christopher Turner

Christopher Turner
Hearing Officer

Cc: Jamie McBride, DSS Investigator Hartford Central Office
OLCRAH.QA.DSS@ct.gov

RIGHT TO REQUEST RECONSIDERATION

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. 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 his designee per §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.