

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 # 207493

**ADMINISTRATIVE DISQUALIFICATION HEARING**

**NOTICE OF DECISION**

**PARTY**

██████████  
████████████████████  
██████████  
████████████████████

**PROCEDURAL BACKGROUND**

On ██████████ 2022, 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 twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by engaging in trafficking of his SNAP benefits. The Department also seeks to recover overpaid SNAP benefits of \$224.45 from the Defendant.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) mailed the Defendant notification 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, OLCRAH reviewed the online United States Postal Service (“USPS”) tracking information and confirmed that the Defendant did not sign for the notification and USPS was unable to deliver it.

On ██████████ 2023, OLCRAH mailed the Defendant the entire packet including the hearing summary and proceedings notification via first class mail. The USPS did not return the packet to the Department; therefore, it is presumed to have been delivered to the Defendant.

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

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:

William Carrasquillo, Investigator, Department’s Representative  
Kristin Haggan, Fair 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 can disqualify the Defendant for a twelve (12) month disqualification period.

The third issue is whether the Department can recover the resulting SNAP overpayment of \$224.45 for the period of [REDACTED] 2021, through [REDACTED] 2021.

### **FINDINGS OF FACT**

1. The Defendant is currently receiving SNAP benefits for a household of one person. (*Department’s Testimony*)
2. The Defendant has no previous IPV’s. (*Exhibit 7: Electronic Disqualification Recipient System (“EDRS”) printout, Department’s Testimony*)
3. The United States Department of Agriculture (“USDA”), Food and Nutrition Service (“FNS”) is the federal agency that administers the SNAP. (*Hearing Record*)
4. [REDACTED] is located at [REDACTED], and sells fruits, vegetables, meats, cold food items, made-to-order sandwiches, tobacco products, health and beauty aids, automobile products, paper goods, and cleaning products. (*Exhibit 10: General Store Information FNS Survey Form and Store Photos*)
5. Between [REDACTED] 2021, and [REDACTED] 2021, the Defendant conducted the following Electronic Benefits Transfer (“EBT”) transactions in SNAP benefits at [REDACTED]. The Department analyzed these transactions and found a consistent pattern that it determined to be trafficking:

Purchase Date	Purchase Time	Purchase Amount
█/21	11:12 PM	\$67.49
█/21	1:49 PM	\$41.99
█/21	9:51 AM	\$38.99
█/21	12:37 PM	\$58.49
█/21	4:33 PM	\$17.49
Total		\$224.45

The EBT transaction total was \$224.45. (*Exhibit 1: Letter of Trafficking █/22, Exhibit 3: Recipient EBT Transaction History, Hearing Summary*)

6. The USDA FNS reviewed EBT transactions at █ and determined that based on analysis of their records the store committed trafficking violations under the SNAP program citing EBT transactions that establish clear and repetitive patterns of unusual, irregular, and inexplicable activity for that type of firm. (*Exhibit 4: USDA Notice █/21*)
7. FNS permanently disqualified █ from participating in SNAP because, based on analysis of their records, the store violated federal SNAP regulations by participating in trafficking activities with SNAP recipient accounts. (*Exhibit 4, Exhibit 5: USDA Notice █/21*)
8. The USDA FNS provided a list of client identification numbers to the Department to conduct further investigation of possible trafficking of SNAP benefits at █ after the disqualification of the business. The Defendant's client identification number appeared on the list. (*Hearing Summary, Department's Testimony*)
9. The Department alleges that the Defendant committed trafficking violations under the SNAP program because the Defendant made a series of transactions that establish clear and repetitive patterns of unusual, irregular, and inexplicable activity as identified by FNS. The Department alleges that the Defendant's EBT activities at █ were transactions that ended in .99, .49, and were large based on the observed store characteristics and recorded food stock. The Department alleges that the Defendant made multiple EBT transactions within a 24-hour period. (*Hearing Summary, Departments Testimony, Exhibit 3*)
10. The Defendant completed five (5) SNAP EBT transactions at █ between █, 2021, and █, 2021. The transactions of \$67.49, \$41.99, \$38.99, \$58.49, and \$17.49 are not overly large based on the photos of █. The store's shelves are well stocked with many name-brand products such as cereals, chips, and bottled water, which account for higher costs. (*Exhibit 3, Exhibit 10, Exhibit 11: Store Photos*)

11. On [REDACTED], 2022, the Department sent the Defendant a letter advising that he was being charged with trafficking SNAP benefits, and an IPV of the SNAP program. The letter informed the Defendant that the penalty for an IPV was disqualification from the SNAP program for one year. (*Exhibit 1*)
12. On [REDACTED], 2022, the Department sent the Defendant a W-1448 Notice of Prehearing Interview advising that he was being charged with trafficking SNAP benefits and that there was a \$224.45 overpayment related to trafficking. The notice stated that the Defendant should contact the Department's Representative by [REDACTED], 2022, if he wished to discuss the matter. (*Exhibit 2: W1448 Notice of Prehearing Interview SNAP Program*)
13. On [REDACTED], 2022, the Department sent the Defendant a W-1449 Waiver of Disqualification Hearing notice. The notice informed the Defendant that he broke the rules of the SNAP program and committed an IPV resulting in a \$224.45 overpayment of SNAP benefits and his right to an ADH. (*Exhibit 2: W1449 Waiver of Disqualification Hearing SNAP Program*)
14. The Defendant did not return the Waiver of Disqualification Hearing form or respond to the Disqualification Notice. (*Department's Testimony, Hearing Summary*)
15. The Department has not referred the Defendant's case to the state police, prosecuting authority, or the Attorney General. (*Department's Testimony*)
16. The Department is seeking to disqualify the Defendant from participating in the SNAP program for a period of one year and recover \$224.45 in overpaid SNAP benefits due to an IPV of trafficking. (*Hearing Record*)
17. The Defendant was not present at the hearing and did not show good cause for failing to appear. (*Hearing Record*)
18. 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], 2022, OLCRAH mailed the Defendant notification of the initiation of the ADH process via certified mail which the Defendant did not sign. On [REDACTED] 2023, OLCRAH mailed the Defendant notification of the initiation of the ADH process via first-class mail which USPS did not return to OLCRAH. This decision is due no later than [REDACTED], 2023.

## **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes 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.

Section 17b-88 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 (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) 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.**

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

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.

**On [REDACTED] OLCRAH mailed the Defendant notification of the initiation of the ADH process via certified mail. The Defendant did not sign for this mail. On [REDACTED] 2023, OLCRAH mailed the Defendant the notification again, this time via first class mail. The USPS did not return the packet. The packets that OLCRAH 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 Bridgeport Regional Office.**

5. 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 or respond to the notification.**

6. 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.
  - (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 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 Department completed an investigation based on a referral from the USDA FNS and concluded the Defendant's SNAP transactions at [REDACTED] for the period of [REDACTED] 2021, through [REDACTED] 2021, reflected multiple transactions within a 24-hour period, and multiple transactions ending in ".49" or ".99". The Department concluded that based on the observed store characteristics and recorded food stock, the Defendant's SNAP transactions were large.**

**Based on Finding of Fact #10, the Defendant completed only five (5) SNAP EBT transactions at [REDACTED] between [REDACTED], 2021, and [REDACTED] 2021. The Appellant only completed two (2) charges in a 24-hour period once on [REDACTED] 2021. In addition, the Defendant's SNAP EBT transactions at [REDACTED] do not appear overly large based on the photos provided by FNS. The photos reflect fully stocked shelves with numerous name-brand products which account for higher prices.**



**Based on the above conclusions of law, the Department did not present clear and convincing evidence to support its position that the Defendant committed an IPV.**

7. 7 C.F.R. § 273.16(b)(12) provides for the claims and the repayment process and specifies 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.

**The Department incorrectly established that the Defendant is responsible for repayment of the SNAP transactions related to trafficking during the period of [REDACTED] 2021, through [REDACTED] 2021, because it did not establish that he committed an IPV.**

8. 7 C.F.R. § 273.18(c)(2) provides for calculating trafficking-related claim amounts. For an IPV claim, the claim must be calculated back to the month the act of IPV first occurred.

**The Department incorrectly established the Defendant has an IPV overpayment of \$224.45 for SNAP transactions made by the Defendant at [REDACTED] during the period of [REDACTED] 2021, through [REDACTED], 2021, because it did not establish that he committed an IPV.**

9. 7 C.F.R. § 271.2 defines trafficking as (1) The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; (6) Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

7 C.F.R. § 273.18(c)(2) provides for 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 incorrectly calculated a SNAP overpayment of \$224.45 for the period of [REDACTED] 2021, through [REDACTED] 2021, as trafficking activities.**

**The Department incorrectly established that the Defendant committed an IPV and is subject to a penalty period and recoupment of SNAP benefits.**

## **DISCUSSION**

The Department submitted a request for an ADH for the Defendant for the SNAP program. The Defendant did not appear at the ADH or provide evidence to dispute the charges.

██████████, where the Defendant conducted the SNAP transactions in question, was permanently disqualified from participating in the SNAP program due to trafficking of SNAP benefits.

The Department alleges that the Defendant conducted numerous transactions at ██████████ ██████████ ending in “.49” or “.99”, that he conducted multiple transactions there within the same day, and that his transactions were large based on the store’s characteristics.

██████████ is a small store with fully stocked shelves that contain numerous name-brand items. The Defendant’s purchases are not overly large based on the expensive items that are sold in the store.

The Defendant only completed five (5) transactions at ██████████ within the three (3) month period from ██████████ 2021, through ██████████, 2021. His visits were sporadic and spread out during that time period (two (2) visits in ██████████, one (1) visit in ██████████, and two (2) visits in ██████████). The Defendant’s visits to the store were not excessive during the period in question, and he did not visit the store enough to establish a clear pattern of irregularity.

The Defendant only completed “multiple transactions within the same day” at ██████████ ██████████ on ██████████ 2021, when he visited the store twice that day.

The Department did not provide clear and convincing evidence that the Defendant demonstrated irregular patterns consistent with trafficking, therefore, it did not provide clear and convincing evidence that the Defendant committed an IPV of the SNAP program

## **DECISION**

The Department’s request to establish that the Defendant committed an IPV of the SNAP program is **DENIED**.

The Department’s request to disqualify the Defendant from the SNAP program for a period of twelve (12) months is **DENIED**.

The Department’s request to recover the overpayment claim of \$224.45 for the period of ██████████ 2021, through ██████████ 2021, is **DENIED**.

*Kristin Haggan*

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Kristin Haggan  
Fair Hearing Officer

CC: [OLCRAH.QA.DSS@CT.gov](mailto:OLCRAH.QA.DSS@CT.gov)  
William Carrasquillo, 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.