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

[redacted], 2023
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request # [redacted]

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

[redacted]

PROCEDURAL BACKGROUND

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 Nutrition Assistance Program ("SNAP") for a period of twelve (12) months. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") by trafficking his SNAP benefits. The Department seeks to recover the overpaid SNAP benefits of $117.94. This is the Defendant's first IPV offense in the SNAP program.

On [redacted], 2023, 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 [redacted], 2023, at [redacted]. The notification outlined a Defendant's rights in these proceedings.

On [redacted], 2023, the Defendant accepted delivery of the certified letter per USPS tracking.

On [redacted], 2023, 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:

Dominic Laird, Social Services Investigator, Department's Representative
Joseph Davey, Administrative Hearing Officer

STATEMENT OF THE ISSUE

The issues to be decided are whether the Defendant committed an IPV of the SNAP and whether the Department's proposal to disqualify the Defendant from the SNAP for twelve months (12) and recoup a SNAP overpayment of $117.94 is correct.

FINDINGS OF FACT

1. The Defendant is a recipient of the SNAP for a household of one (1) with a certification period of [redacted], 2022, through [redacted], 2023. (Exhibit 23: SNAP EDG Summary printout [redacted])

2. The Defendant resides at [redacted] in [redacted]. (Hearing Record)

3. The Defendant has no prior IPV's. (Exhibit 22: Electronic Disqualification Recipient System ["EDRS"] printout, Department's testimony)

4. On [redacted], 2022, the Department received a referral reporting an excessive amount of Electronic Benefit Transfer ("EBT") cards ordered by [redacted]. [redacted] (hereinafter "the Sister") is the Defendant's biological sister. (Exhibit 1: Referral printout dated [redacted], Exhibit 2: Printout of card replacement history for [redacted], Department's testimony, Hearing Record)

5. The Sister resides at [redacted] in [redacted], CT. (Exhibit 7: Online SNAP renewal form for [redacted] dated [redacted])

6. Between [redacted], 2022, and [redacted], 2022, the Sister requested a total of six (6) replacement EBT cards. (Exhibit 2, Exhibit 3: Case notes for [redacted] dated [redacted])

7. Between [redacted], 2022, and [redacted], 2022, there were a total of six (6) invalid Personal Identification Number ("PIN") entries on the Sister's EBT account. (Exhibit 8: [redacted] 2022 EBT transactions [redacted], Hearing Record)

8. The Department deemed the amount of replacement EBT cards requested and the number of invalid PIN entries to be suspicious. (Hearing Record)

9. On [redacted], 2022, the Department issued subpoenas to review video footage, receipts, and membership/loyalty card information at various locations where the Department had flagged suspicious transactions on the Sister's EBT account. (Hearing Record)

10. Between [redacted], 2022, and [redacted], 2022, the Department reviewed the information submitted as a result of the subpoenas. The Department discovered that the Defendant's [redacted] membership card had been used in relation to a transaction on the Sister's EBT account. (Exhibit 8, Exhibit 11: Subpoena results for [redacted] transactions, Hearing Record)

11. The Department reviewed video footage received from [redacted], [redacted], and [redacted] as a result of the subpoenas. Footage and transaction receipts from [redacted] and [redacted] displayed a male individual using the Sister's EBT card to purchase various food items at the following dates, times, and locations and in the following amounts:

Date	Time	Amount	Location	Address
[redacted]	6:55 AM	$67.92	[redacted]	[redacted], CT
[redacted]	4:23 AM	$4.79	[redacted]	[redacted], CT
[redacted]	4:23 AM	$9.58	[redacted]	[redacted], CT
[redacted]	8:32 AM	$4.79	[redacted]	[redacted], CT
[redacted]	4:27 AM	$15.27	[redacted]	[redacted]ord, CT
[redacted]	3:38 AM	$15.59	[redacted]	[redacted], CT
[redacted]- [redacted]		Total: $117.94		

(Exhibit 8, Exhibit 11, Exhibit 12: Subpoena results for [redacted] transactions)

12. The Department identified the male individual in the video footage as the Defendant by matching the footage from [redacted] and [redacted] to the Defendant's photo ID on file. In addition, the male individual was seen on the footage leaving [redacted] in a [redacted]; the same make, model and color as the vehicle registered to the Defendant. (Exhibit 11, Exhibit 12, Exhibit 13: Photo ID for [redacted], Exhibit 16: Vehicle registration for [redacted])

13. The Defendant's personal Facebook account, including two additional Facebook accounts the Defendant tagged as belonging to him under the aliases "[redacted]" and "[redacted]", display the Defendant wearing the same jacket and driving the same [redacted] as in the [redacted] video footage. (Exhibit 12, Exhibit 15: Social media screenshots)

14. The Department alleges that the invalid PIN entries on the Sister's EBT card correspond with the dates on which the Defendant's own SNAP benefit balance

is low. The invalid PIN entries on the Sister's EBT card and the Defendant's SNAP benefit balance on the same dates are as follows:

Date of Invalid PIN entry on Sister's EBT card.	Defendant's SNAP benefit balance.
[redacted]	$0.97
[redacted]	$0.00
[redacted]	$0.00
[redacted]	$0.00
[redacted]	$0.00
[redacted]	$64.65

(Exhibit 8, Exhibit 9: [redacted] EBT transaction history [redacted], Department's testimony, Hearing Record)

15. The Defendant does not live with the Sister and is not an authorized representative or authorized shopper on the Sister's SNAP case. (Exhibit 6: Blank authorized representative page for [redacted], Exhibit 7)

16. The Department alleges that between [redacted], 2022, and [redacted], 2022, the Defendant trafficked $117.94 in SNAP benefits. The amount was determined by video footage and transaction receipts displaying the Defendant using the Sister's EBT card at [redacted] and [redacted] and by the corresponding EBT transaction history on the Sister's EBT account. (Exhibit 8, Exhibit 11, Exhibit 12)

17. The Department alleges that the Defendant committed an IPV by trafficking his SNAP benefits and seeks to disqualify him from the SNAP for twelve (12) months. In addition, the Department wishes to recoup the $117.94 in SNAP benefits they identified as having been trafficked. Recoupment has not yet started on the Defendant's case. (Hearing Record, Department's testimony)

18. On [redacted], 2023, the Department sent the Defendant an ADH Processes and Rights Information form ["W-1447,"] a Prehearing Interview letter ["W-1448,"] and a Waiver of Disqualification letter ["W-1449"]. The W-1448 scheduled a Prehearing Interview for the Defendant on [redacted], 2023, at 11:00 AM. (Exhibit 18: W-1448, Exhibit 19: W1449, Department's testimony)

19. On [redacted], 2023, the Department called the Defendant to confirm his pre-hearing interview appointment on the same day. The Department spoke briefly to the Defendant who admitted to using the Sister's EBT card. The Defendant claimed it was to purchase food for the Sister's children who he alleged were staying with him for a period of time. The Defendant stated he would not be appearing for the scheduled pre-hearing interview and would not be paying the recoupment amount. (Department's testimony, Hearing Record)

20. The Defendant did not appear for the scheduled Prehearing Interview, did not contact the Department regarding a reschedule and did not sign the Waiver of Disqualification. (Department's testimony)

21. The Defendant's case has not been referred for civil or criminal prosecution. (Department's testimony)

22. The Defendant was not present at the Administrative Disqualification Hearing on [redacted], 2023, and did not show good cause for failing to appear. (Hearing Record)

23. 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 (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 OLCRAH notified the Defendant of the initiation of the ADH process via certified mail on [redacted], 2023. This decision is therefore 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], 2023. 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 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 accepted the packet on [redacted], 2023.

The Defendant failed to appear for the scheduled ADH on [redacted], 2023, 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], 2023.

7 C.F.R § 273.2(n)(2) provides for Obtaining SNAP benefits*.* An authorized representative may be designated to obtain benefits. Even if the household is able to obtain benefits, it should be encouraged to name an authorized representative for obtaining benefits in case of illness or other circumstances which might result in an inability to obtain benefits. The name of the authorized representative must be recorded in the household's case record. The authorized representative for obtaining benefits may or may not be the same individual designated as an authorized representative for the application process or for meeting reporting requirements during the certification period.

7 C.F.R § 273.2(n)(3) provides for Using benefits. A household may allow any household member or nonmember to use its EBT card to purchase food or meals, if authorized, for the household. Drug or alcohol treatment centers and group living arrangements which act as authorized representatives for residents of the facilities must use SNAP benefits for food prepared and served to those residents participating in SNAP (except when residents leave the facility as provided in § 273.11(e) and (f)).

The Defendant was not an appointed authorized representative on the Sister's SNAP case.

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. § 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.

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 trafficking SNAP benefits. Extensive documentation provided by the Department show the Defendant participating in trafficking (exchange of benefits) by using the Sister's EBT card to purchase food items for himself. The Defendant was not a member of the Sister's SNAP household and was not an appointed authorized representative.

8. 7 C.F.R. § 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: (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)(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 disqualifed 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's first IPV is one year.

9. 7 C.F.R. § 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)(ii) provides that recipient claim is an amount owed because of: (ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

   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 C.F.R. § 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 trafficked.

10. 7 C.F.R. § 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 amount of the Defendant's trafficking-related claim was $117.94.

DISCUSSION

The Defendant did not appear for the Administrative Disqualification Hearing and did not provide evidence or testimony to rebut the claims brought forth by the Department. Therefore, this decision is based solely on the evidence and testimony provided by the Department.

The Department clearly and convincingly established that the Defendant committed an IPV of trafficking (exchange of benefits) by using the Sister's EBT card to purchase food items for himself. Video footage stills provided by the Department are a clear match with the Defendant's photo ID and Facebook postings, and corresponding EBT account records clearly display the Defendant was using the Sister's EBT card to make purchases for himself on the dates in question. Further, the Defendant admitted to using the Sister's card to make purchases when speaking with the Department on [redacted], 2023.

The Department provided evidence to confirm that the Defendant was not living with the Sister, and was not an appointed authorized representative or authorized shopper on her SNAP case. In using the Sister's card to make purchases for himself, the Defendant willfully violated the SNAP program rules and thus is subject to both making restitution for the amount he trafficked as well as the disqualification penalty related to his first IPV.

DECISION

1. The Defendant is **GUILTY** of committing his first SNAP Intentional Program Violation for trafficking SNAP benefits.

2. The Department is authorized to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months and to seek recovery of $117.94 in SNAP benefits.

Joseph Davey
Administrative Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov

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.