

**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 # 214482

**ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION**

PARTY

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

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of [REDACTED] [REDACTED] (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for a period of 12 months. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's failure to report income from [REDACTED] [REDACTED]. 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. The Defendant did not sign for the Hearing Summary and evidence sent by certified mail per United States Postal Service ("USPS") tracking. On [REDACTED] 2023, OLCRAH mailed the notification, hearing summary, and evidence by regular mail to the Defendant. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for [REDACTED], 2023.

On [REDACTED] 2023, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative

Disqualification Hearing. The Defendant was not present at the hearing and did not provide good cause for not appearing.

The following individuals were present at the hearing:

Christopher Pinto, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV in the SNAP program.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Defendant began employment with [REDACTED]. (Exhibit 8: Letter and W-35, Certification for Disclosure of Gross Wages, Salary or Commission Paid form, [REDACTED]/23)
2. On [REDACTED], 2021, the Defendant received his first weekly paycheck from employment at [REDACTED]. (Exhibit 8 and Exhibit 9: Payroll Register)
3. From [REDACTED], 2021, through [REDACTED], 2022, the Appellant received weekly wages from [REDACTED]. (Exhibit 9)
4. On [REDACTED] 2022, the Department received a W-1ER, Notice of Renewal of Eligibility from the Defendant. The Defendant did not report employment with [REDACTED] on page 7 of the form under "Income From Work". The Defendant signed the form and stated, "I certify under penalty or perjury that all of the information given on this form is true and complete to the best of my knowledge" and I understand that I can be criminally or civilly prosecuted under state or federal law if I knowingly give incorrect information or fail to report something I should report." (Exhibit 2: Notice of Renewal of Eligibility, [REDACTED]/22)
5. On [REDACTED] 2022, the Department sent the Defendant a Notice of Action ("NOA"). The Department renewed the Defendant's SNAP benefits with a certification period of [REDACTED] 2020, to [REDACTED] 2023. The notice stated in part, "You must call the Benefit center to report if you or a member of your household begins to receive earned income. Earned income can include wages received by an employee or income received from self-employment." The notice further stated, "You must notify the Department

within 10 days of any change in income, assets or living arrangements.”
(Exhibit 13: NOA, [REDACTED] 22)

6. From [REDACTED] 2022, through [REDACTED] 2023, the Defendant continued to receive a weekly paycheck from [REDACTED]. (Exhibit 9)
7. From [REDACTED] 2022, through [REDACTED] 2023, the Defendant was issued a monthly SNAP benefit to his EBT card. (Exhibit 12: Benefit History)
8. On [REDACTED] 2023, the Department sent [REDACTED] a W-36, Certificate For Disclosure of Gross Wages, Salary, or Commission Paid, requesting verification of start date, end date, and wages received. (Exhibit 8: W-35)
9. On [REDACTED], 2023, [REDACTED] sent a letter to the Department along with the Payroll Register Summary verifying the start date of [REDACTED] 2021, and weekly gross wages from [REDACTED], 2021, through [REDACTED], 2023. (Exhibit 8 and Exhibit 9)
10. On [REDACTED] 2023, the Department received a referral that the Defendant was working for [REDACTED] and misrepresented his income on his [REDACTED] 2022 renewal form. (Hearing Summary and Exhibit 11: CFI Tracking [REDACTED]/2023)
11. On [REDACTED], 2023, the Department sent the Defendant a Notice of Waiver of Disqualification Hearing SNAP. The Waiver stated the Department believes the Defendant broke the rules of the SNAP program on purpose. The notice gives the Defendant the option of signing a waiver or attending the ADH. (Hearing Record)
12. The Defendant did not attend the pre-hearing interview and did not sign the Waiver of Disqualification Hearing. (Hearing Record).
13. The Defendant has no prior intentional program violations of the SNAP program. (Department’s testimony and Exhibit 3: EDRS screen print)
14. The issuance of this decision is timely under Title 7 Section 273.16€(2)(iv) of the code of Federal Regulations, which requires that a decision be issued within 90 days of the initiation of the ADH process. On [REDACTED] 2023, the OLCRAH mailed the Defendant notification of the initiation of the ADH process. Therefore, this decision is due not later than [REDACTED] 2023. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.
3. State statute provides as follows:

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 (1) shall immediately initiate recoupment action and consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (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.

Conn. Gen. Stat. § 17b-8

4. Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.16(a)(1) provides as follows:

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 State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.” 7 C.F.R. § 273.16(e)

5. Federal regulation provides as follows:

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(a)(3)

6. Federal regulation provides as follows:

General. No household may participate beyond the expiration of the certification period assigned in accordance with §273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

7 C.F.R. § 273.14(a)

7. Federal regulation provides as follows:

Application. The State agency must develop an application to be used by households when applying for recertification. It may be the same as the initial application, a simplified version, a monthly reporting form, or other method such as annotating changes on the initial application form. A new household signature and date is required at the time of application for recertification. The provisions of §273.2(c)(7) regarding acceptable signatures on applications also apply to applications used at recertification. The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period, except for delayed applications as specified in paragraph (e)(3) of this section. The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The State agency must notify the applicant of information which is specified in §273.2(b)(2) and provide the household with a notice of required verification as specified in §273.2(c)(5).

7 C.F.R. § 273.14(b)(2)

8. Federal regulation provides as follows:

The State agency may use a telephone interview instead of the face-to-face interview required in paragraph (e)(1) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone.

The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

7 C.F.R. § 273.2(e)(2)

The Department correctly determined that the Defendant failed to report on the [REDACTED] 2022, recertification of his employment at [REDACTED].

9. Federal regulation provides as follows:

Certified households must report changes within 10 days of the date the change becomes known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred. For reportable changes of income, the State agency shall require that change to be reported within 10 days of the date that the household receives the first payment attributable to the change. For households subject to simplified reporting, the household must report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household receives the payment with at least 10 days remaining in the month. If there are not 10 days remaining in the month, the household must report within 10 days from receipt of the payment. Optional procedures for reporting changes are contained in paragraph (f) of this section for households in States with forms for jointly reporting SNAP and public assistance changes and SNAP and general assistance changes

7 C.F.R. § 273.12(a)(2)

10. Federal regulation provides as follows:

An applying household shall report all changes related to its SNAP eligibility and benefits at the certification interview. Changes, as provided in paragraph (a)(1) of this section, which occur after the interview but before the date of the notice of eligibility, shall be reported by the household within 10 days of the date of the notice.

7 C.F.R. § 273.12(a)(3)

11. Federal regulation provides as follows:

If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16.

7 C.F.R. § 273.12 (d)

12. Federal regulation provides as follows:

The State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation. Uniform Policy Manual ("UPM") Section 7050 outlines the Administrative Disqualification Hearing process.

7 C.F.R. § 273.16(e)

13. Federal regulation provides as follows:

For purposes of determining through administrative disqualification hearings whether or not a person has committed an 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 the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

7 C.F.R. § 273.16(c)

14. Federal regulations provides as follows:

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.

7 C.F.R. § 273.16(e)(6)

The hearing record clearly and convincingly established that the Defendant's error and misstatement of failing to report earnings at the time of recertification of his SNAP benefits was an intentional program violation.

The hearing record clearly and convincingly established that the Defendant did not report earnings within 10 days of receiving his first paycheck on [REDACTED], 2021, and the misstatement on his [REDACTED] 2022, renewal form that he had no income, was an intentional program violation of the SNAP.

15. Federal regulation provides as follows:

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;

(ii) For a period of twenty-four months upon the second occasion of any intentional Program violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any intentional Program violation.

7 C.F.R. § 273.16(b)(1)

The Hearing record clearly and convincingly established that the Defendant intentionally failed to report his earnings at the time of his [REDACTED] 2022 recertification of SNAP benefits.

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 12 months.

DISCUSSION

The Department met its burden to establish by clear and convincing evidence that the Defendant committed an intentional program violation pertaining to the SNAP.

DECISION

The Defendant is guilty of committing a first-offense intentional program violation in the SNAP program as the Defendant knowingly did not properly report his household earnings from employment at [REDACTED]. **The Department's request is GRANTED.** The Department may disqualify the Defendant from participating in the SNAP for a period of 12 months.

Scott Zuckerman
Scott Zuckerman
Hearing Officer

Cc: DSS, Quality Assurance

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.