

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

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

████████████████████  
████████████████████  
Request #: 217301

**ADMINISTRATIVE DISQUALIFICATION HEARING**

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2023, the Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek the disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutritional Assistance Program (“SNAP”) for a period of twelve (12) months. The Department alleges that the Defendant committed and Intentional Program Violation (“IPV”) by misuse of a deceased individual’s Electronic Benefits Transfer (“EBT”) card. The Department also seeks to recover overpaid SNAP benefits. The Department alleges that the SNAP overpayment totaled \$554.44 for the period of ██████████ 2023 through ██████████ 2023.

On ██████████ 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 notification outlined the Defendant’s rights for these proceedings and scheduled the ADH for ██████████, 2023.

On ██████████ 2023, the United States Postal Service (“USPS”) attempted delivery of the certified mail to the Defendant’s address and left a notice. The Defendant did not sign for the Hearing Summary and evidence sent by certificate mail per USPS tracking, and on ██████████ 2023, the USPS returned the certified mail to OLCRAH as unclaimed.

On ██████████, 2203, OLCRAH mailed the administrative hearing notice, hearing summary, and evidence by regular mail to the Defendant.

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

The Defendant was not present for the in-person ADH held at the Hartford Regional Office on [REDACTED] 2023.

The following individuals were present at the hearing:

Christopher Pinto, DSS Investigator  
Amy MacDonough, Hearing Officer

The hearing record remained open for the submission of additional evidence by the Department. On [REDACTED], 2023, the undersigned received the requested information, and the record closed.

### **STATEMENT OF THE ISSUE**

The first issue is whether the Defendant committed an IPV of the SNAP and is subject to a twelve (12) month disqualification period.

The secondary issue is whether the Department correctly proposed a SNAP recoupment of an overpayment (“OP”) in the amount of \$554.44 for the period of [REDACTED] 2023 through [REDACTED] 2023.

### **FINDINGS OF FACT**

1. On [REDACTED] 2022, the Department received a W-1EDD, Eligibility Determination Document, requesting SNAP for a household of three; herself and two children. The Defendant signed the form stating she read the rights and responsibilities notice provided with the W-1EDD. (*Department’s Testimony; Exhibit 8: Eligibility Determination Document*)
2. On [REDACTED] 2022, the Department issued a NOA to the Defendant approving SNAP benefits for [REDACTED] 2022 and [REDACTED] 2022. (*Department’s Testimony; Exhibit 1: Notice of Action*)
3. [REDACTED], a SNAP recipient (“Recipient”), signed a W-1ER Notice of Renewal of Eligibility form on [REDACTED] 2022, for a household of one. The W-1ER form did not list the Defendant as a household member, authorized representative, or authorized shopper. (*Exhibit 9: W-1ER; Exhibit 10: Authorized Representative Summary*)

4. On [REDACTED], 2023, the Recipient died. (*Department's Testimony; Exhibit 3: Misuse of Benefit Notice/W-1449*)
5. On [REDACTED] 2023, the Department received a fraud referral stating the Defendant stole benefits from the Recipient's SNAP EBT benefits. (*Department's Testimony; Exhibit 2: CFI Tracking System sheet*)
6. The Department performed an inquiry of the Recipient's EBT card transactions from [REDACTED], 2023, through [REDACTED], 2023. The following transactions occurred during that period:

Transaction Date	Store	Transaction Amount	Eligible Transaction
[REDACTED]/2023	[REDACTED]	\$15.86	No
[REDACTED]/2023	[REDACTED]	\$67.03	No
[REDACTED]/2023	[REDACTED]	\$345.45	No
[REDACTED]/2023	[REDACTED]	\$25.97	No
[REDACTED]/2023	[REDACTED]	\$29.34	No
[REDACTED]/2023	[REDACTED]	\$25.67	No
[REDACTED]/2023	[REDACTED]	\$46.12	No
<b>Total:</b>		<b>\$555.44</b>	

(*Department's Testimony; Exhibit 7: Transaction Detailed Report*)

7. The Department received verification from RBS Asset Protection that the Defendant's loyalty card was used to make the purchases from the Recipient's EBT card that occurred on [REDACTED], 2023, and [REDACTED] 2023, at [REDACTED]. (*Department's Testimony; Exhibit 6: Email from RBS Asset Protection Investigations Group; Exhibit 7*)
8. The Recipient did not have an Authorized Representative or Authorized Shopper on her SNAP case. (*Department's Testimony; Exhibit 9: Recipient's Renewal Form, [REDACTED]/2022; Exhibit 10: Authorized Representative-Summary*)
9. On [REDACTED], 2023, the Department mailed the Defendant a Misuse of Benefits Notice scheduling an appointment for [REDACTED] 2023, at 11am and requesting that the Defendant contact the Department prior to [REDACTED] 2023. The Department also issued a Waiver of Disqualification Hearing ("W-1449") notice advising the Defendant of the Department's proposal to disqualify her from the SNAP and the Administrative Disqualification Hearing Process. (*Department's Testimony; Exhibit 3*)
10. The Defendant did not attend the scheduled appointment on [REDACTED], 2023. The Defendant did not contact the Department to reschedule the appointment and did not sign the waiver form. (*Department's Testimony*)
11. The Defendant has no prior intentional program violations of the SNAP program. (*Department's Testimony; Exhibit 4: EDRS print out*)

12. The Department seeks to disqualify the Defendant from participation in the SNAP for the period of twelve (12) months due to an IPV when the Defendant knowingly used benefits that the Department did not issue to her and for which she was not an Authorized Representative or Authorized Shopper. (*Department's Testimony; Exhibit 3*)
13. The Department seeks to recover \$555.44 for the unauthorized purchases allegedly made by the Defendant using the Recipient's EBT card between [REDACTED], 2023, through [REDACTED] 2023. (*Department's Testimony; Exhibit 3; Exhibit 7*)
14. The Defendant's case has not been referred to the state police, a prosecuting attorney, or the Attorney General for recovery in the court system. (*Department's Testimony*)
15. The issuance of this decision is timely under Title 7 Section 273.16(e)(2)(iv) of the Code of Federal Regulations ("C.F.R."), which requires that the agency issue a decision within 90 days of the initiation of the ADH process. On [REDACTED] 2023, the OLCRAH received the request for an ADH hearing. The OLCRAH initiated the ADH process on [REDACTED] 2023; therefore, 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.

#### **The Department has the authority to administer the SNAP.**

2. 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.

#### **The Department has the authority to recover SNAP benefits.**

3. 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.

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

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

**The Department properly initiated the ADH.**

4. 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.

**The Department did not receive the signed Notice of Waiver of Disqualification Hearing form that it mailed to the Defendant on [REDACTED] 2023.**

5. 7 C.F.R. § 273.16(e)(3) provides for 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 information provided by the State agency if the individual fails to appear at the hearing; (E) A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing; (F) A warning that a determination of intentional Program violation will result in disqualification periods as determined by paragraph (b) of this section, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing; (G) A listing of the individual's rights as contained in § 273.15(p); (H) A statement that the hearing does not preclude the State or Federal Government from prosecuting the individual for the intentional Program violation in a civil or criminal court action, or from collecting any overissuance(s); and (I) If there is an individual or organization available that provides free legal representation, the notice shall advise the affected individual of the availability of the service.

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.

**OLCRAH properly notified the Defendant of the ADH on [REDACTED], 2023. On that date, OLCRAH sent the Defendant a packet containing the date, time and location of the hearing, a summary of the charges against the Defendant, a summary of the evidence and 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 sign for the packet, and the USPS returned the packet to OLCRAH as unclaimed. OLCRAH sent the Defendant the packet by regular mail on [REDACTED] 2023.**

**The Defendant failed to appear for the scheduled ADH on [REDACTED] 2023, and did not provide good cause for failing to appear.**

6. 7 C.F.R. § 273.1 provides for household concept. General household definition and states a household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:
- (1) An individual living alone;
  - (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
  - (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. § 273.2(n) provides for authorized representatives and states representatives may be authorized to act on behalf of a household in the application process, in obtaining SNAP benefits, and in using SNAP benefits.

7 C.F.R. § 273.2(n)(1)(i) provides that a nonhousehold member may be designated as an authorized representative for the application process provided that the person is an adult who is sufficiently aware of relevant household circumstances and the authorized representative designation has been made in writing by the head of the household, the spouse, or another responsible member of the household. Paragraph (n)(4) of this section contains further restrictions on who can be designated an authorized representative.

7 C.F.R. § 273.2(n)(3) provides for using benefits and states in part that a household may allow any household member or nonmember to use its EBT card to purchase food or meals, if authorized, for the household.

**The Department correctly determined that the Defendant was not a household member on the Recipient's SNAP benefits.**

**The Department correctly determined that the Defendant was not an authorized representative or an authorized shopper for the Recipient.**

7. 7 C.F.R. § 273.16(c) provides that 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.

**The Department correctly determined that the Defendant was not a member of the Recipient's SNAP household and not authorized to access the Recipient's SNAP benefits.**

**The Defendant misused the Recipient's EBT benefits when she used the card to make purchases after the Recipient's death.**

8. 7 C.F.R. § 273.16(e)(6) provides for criteria for determining intentional program violation and states 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, intentional Program violation as defined in paragraph (c) of this section.

**The Defendant intentionally committed an IPV when she accessed the Recipient's EBT benefits after her [REDACTED], 2023, date of death.**

**The Department provided clear and convincing evidence that the Defendant committed and intended to commit an IPV when she accessed the deceased Recipient's EBT benefits on [REDACTED] 2023, and [REDACTED], 2023, at [REDACTED].**

**The Department failed to provide supporting evidence that the Defendant is responsible for the other five (5) transactions that occurred during the period of [REDACTED] 2023, through [REDACTED] 2023.**

9. 7 C.F.R. § 273.2(f)(11)(i) provides for use of disqualification data and states pursuant to § 273.16(i), information in the disqualified recipient database will be available for use by any State agency that executes a computer matching agreement with FNS. The State agency shall use the disqualified recipient database for the following purposes: (A) Ascertain the appropriate penalty to impose based on past disqualifications in a case under consideration.



**The Department correctly determined that the Defendant does not have any prior SNAP disqualifications.**

10.7 C.F.R. § 273.16(b) provides for disqualification penalties and states (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) provides for the imposition of disqualification penalties and states:

- (i) If the hearing authority rules that the individual has committed an intentional Program violation, the household member must be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section. The same act of intentional Program violation repeated over a period of time must not be separated so that separate penalties can be imposed.
- (ii) no further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional Program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.
- (iii) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

**The Department correctly determined that the disqualification period for the Defendant is twelve (12) months.**

11.7 C.F.R. § 273.18(a) provides for claims against households and states (1) a recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked.

7 C.F.R. § 273.18(b) provides for types of claims and states there are three types of claims: (1) An Intentional Program Violation: 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) claim: any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.

(3) Agency error (AE) claim: any claim for an overpayment caused by an action or failure to take action by the State agency.

**The Department correctly determined the overpayment is the result of an IPV.**

12.7 C.F.R. § 273.18(c)(1) provides for calculating the claim amount. 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 an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment. (ii) The actual steps for calculating a claim are you (A) determine the correct amount of benefits for each month that the 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 unless the claim is an AE claim then apply the earned income deduction. (C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment unless the answer is zero or negative then dispose of the claim referral. (D) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account in accordance with your own procedures. The difference is the amount of the claim unless you are not aware of any expunged benefits then the amount of the overpayment calculated in paragraph (c)(1)(ii)(C) of this section is the amount of the claim.

**The Department only provided evidence supporting the [REDACTED], 2023, and [REDACTED] 2023, transactions which occurred at [REDACTED], totaling \$412.48.**

**The Defendant is responsible for an overpayment in the amount of \$412.48.**

### **DISCUSSION**

The Department provided clear and convincing evidence that the Defendant used the Recipient's EBT card in conjunction with her loyalty card for the [REDACTED], 2023, and [REDACTED], 2023, transactions. The Department failed to provide evidence that the Defendant used the Recipient's EBT card for the other transactions occurring after the Recipient's death.

### **DECISION**

1. The Defendant is **GUILTY** of committing a SNAP Intentional Program Violation for making unauthorized purchases from the deceased Recipient's EBT card at [REDACTED] on [REDACTED], 2023, and [REDACTED] 2023, resulting in stolen benefits. The Department may disqualify the Defendant from participating in the SNAP for a period of twelve (12) months.

2. The Department is authorized to seek recovery of the \$412.48 in SNAP benefits from the Defendant that were a result of an IPV.

  
Amy MacDonough  
Fair Hearing Officer

CC: [OLCRAH.QA.DSS@CT.gov](mailto:OLCRAH.QA.DSS@CT.gov)  
Christopher Pinto, DSS, Fraud Investigator

**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.