

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

[REDACTED] 2023
Signature Confirmation

Case# [REDACTED]
Client ID # [REDACTED]
Request # 217633

**ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION**

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

REASON FOR HEARING

On [REDACTED], 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received a request for an Administrative Disqualification Hearing (“ADH”) from the Department of Social Services (“Department”) Investigations and Recoveries Division (“Investigations Unit”) seeking a twelve (12) month disqualification of [REDACTED] (“the Defendant”) from participating in the Supplemental Nutrition Assistance Program (“SNAP”). The Department alleges the Defendant committed an Intentional Program Violation (“IPV”) by engaging in the trafficking of her SNAP benefits. The Department seeks to recover the overpaid SNAP benefits of \$458.73 from the Defendant.

On [REDACTED] 2023, the OLCRAH mailed the Defendant a Notice of Administrative Hearing (“NOAH”) via United States Postal Service (“USPS”) certified mail informing the Defendant that the Department scheduled an administrative disqualification hearing for [REDACTED], 2023. The NOAH included notification of the Defendant’s rights in these proceedings and the Department’s hearing summary and evidence supporting the Department’s case against the Defendant.

On [REDACTED] 2023, the Defendant received the NOAH, notification of her rights, the hearing summary, and supporting evidence as documented by the online USPS tracking confirmation verified by OLCRAH.

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 section 273.16, subsection (e).

The Defendant did not appear for the ADH on [REDACTED], 2023. The Defendant did not show good cause for failure to appear on [REDACTED], 2023.

The following individuals were present at the hearing:

William Carrasquillo, DSS Lead Investigator
Gonxhe Kalici, DSS Investigator (Observer)
Alisha Richardson, Fair Hearing Officer

The hearing record was reopened on [REDACTED], 2023, to request additional information from the Department and to allow the Appellant to respond to the new evidence. The hearing record closed on [REDACTED], 2023.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an IPV of the SNAP program and is subject to disqualification from the program for twelve months and whether the resulting overpayment is subject to recovery.

FINDINGS OF FACT

1. The Defendant was not present at the ADH. (Hearing Record)
2. The Defendant is currently receiving SNAP benefits. (Department's Testimony)
3. The Defendant has no previous IPV's. (Exhibit 9: Electronic Disqualification Recipient System ("EDRS") Printout, Department's Testimony)
4. [REDACTED] [REDACTED] [REDACTED] is located at [REDACTED] [REDACTED] [REDACTED] [REDACTED], Connecticut [REDACTED]. (Exhibit 1: Department SNAP Violation Letter [REDACTED]/23)
5. On [REDACTED] [REDACTED], 2021, the United States Department of Agriculture ("USDA") Food and Nutrition Service ("FNS") issued [REDACTED] a notice charging the merchant with trafficking because an analysis of store records, including a review of the store's characteristics, food stock, and store pricing, revealed EBT transactions that established clear and repetitive patterns of unusual, irregular, and inexplicable activity between [REDACTED] 2020 and [REDACTED] 2021. (Exhibit 5: USDA letter [REDACTED]/2021)
6. On [REDACTED] 2021, the USDA FNS permanently disqualified [REDACTED] [REDACTED] from participation in the SNAP. (Exhibit 6: USDA letter [REDACTED]/21)

7. Because the USDA found [REDACTED], located at [REDACTED], Connecticut, guilty of trafficking in SNAP benefits, it forwarded a list of client identification numbers and transactions to the Department to pursue penalties for program violations. (Hearing Summary)
8. On the dates listed below, the Defendant's Electronic Bank Transfer ("EBT") card was used at [REDACTED], to access SNAP benefits from the Defendant's account. (Exhibit 1 and Exhibit 4: Recipient Transaction History)

Date	Amount	Time
[REDACTED]/2020	\$87.89	5:53 pm
[REDACTED]/2020	\$79.89	4:14 pm
[REDACTED]/2020	\$79.85	9:30 am
[REDACTED]/2020	\$58.75	10:48 am
[REDACTED]/2021	\$79.85	12:23 pm
[REDACTED]/2021	\$72.50	3:21 pm
Total	\$458.73	

9. The Department marked the above transactions as trafficking because they are of high dollar value in comparison to [REDACTED] store characteristics and recorded food stock. (Hearing Summary and Department's Testimony)
10. On [REDACTED] 2023, the Department sent the Defendant a *W-1448 Notice of Prehearing Interview* and a *W-1449 Waiver of Disqualification Hearing* for the SNAP informing her that she could schedule an appointment to discuss the allegation of fraud and that there: was an IPV that had caused a \$458.73 overpayment for the period covering [REDACTED] 2020, through [REDACTED] 2021. The Defendant was given a deadline of [REDACTED] 2023, to respond. (Exhibit 1, Exhibit 2: W1448, and Exhibit 3: W1449)
11. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year and is seeking recovery of \$458.73 in overpaid SNAP benefits due to an IPV of trafficking. (Exhibit 1, Exhibit 2, and Hearing Summary)
12. 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)
13. 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] 2023, OLCRAH mailed the Defendant notification of the initiation of the ADH process and held the

administrative hearing on ██████████ 2023; therefore, this decision is due no later than ██████████ 2023.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) provides the Department of Social Services is designated as the state agency for the administration of the Supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Conn. Gen. Stat. § 17b-88 provides for 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 shall 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.
3. Title 7 of the Code of Federal Regulations (“C.F.R.”) section 273.16(e) provides for disqualification hearings. 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 Department has the authority to initiate and hold Administrative Disqualification Hearings.

4. 7 C.F.R. § 273.16(a)(1) provides for Administrative Responsibility. 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.

5. 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 was correct to request an ADH because they did not receive the signed Notice of Waiver of Disqualification Hearing form that was mailed to the Defendant on [REDACTED] 2023.

6. 7 C.F.R. § 273.16(e)(3)(i) provides for advanced notice of hearing. 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.
7. 7 C.F.R. § 273.16(e)(3)(iii) provides 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.

The Defendant acknowledged receipt of the ADH notice that included a summary of the Department's charges. The Defendant did not attend the disqualification hearing.

8. 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.
9. 7 C.F.R. § 273.16(c)(2) defines intentional program violation. Intentional Program violations shall consist of having intentionally: (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 Defendant SNAP transactions at [REDACTED] for the period in question, were found to be unusually high for the store's characteristics and food stock.

The hearing record clearly and convincingly established that the Defendant intentionally violated program rules by trafficking her SNAP.

10.7 C.F.R. § 273.2(f)(11)(i) provides for the use of disqualification data. 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 the defendant does not have any prior disqualifications.

11.7 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.

12.7 C.F.R. § 273.16(e)(6) provides 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, intentional Program violation as defined in [paragraph \(c\)](#) of this section.

13.7 C.F.R. § 273.16(e)(8)(i) provides for the 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.

14.7 C.F.R. § 273.16(e)(8)(ii) provides 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.

15.7 C.F.R. § 273.16(e)(8)(iii) provides 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 was correct to seek a twelve (12) month disqualification that restricts the Defendant from applying for SNAP.

16.7 C.F.R. § 273.16(b)(12) provides for disqualification penalties. 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](#).

17.7 C.F.R. § 273.18(a)(1) provides for claims against households. A recipient claim is an amount owed because of: (ii) Benefits that are trafficked. Trafficking is defined in [7 CFR 271.2](#).

18.7 C.F.R. § 273.18(a)(2) provides this claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

19.7 C.F.R. § 273.18(a)(4) provides 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.

20.7 C.F.R. § 273.18(b) provides for types of claims. There are three types of claims: (1) An Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in [§ 273.16](#). (2) An inadvertent household error (IHE) claim is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. (3) An Agency Error (AE) claim is 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.

21.7 C.F.R. § 273.18(c) provides for calculating the claim amount. (2) 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 Defendant is guilty of committing an IPV and is responsible for making restitution for the overpayment.

The Defendant is responsible for the total overpayment claim of \$458.73.

DECISION

The Defendant is **GUILTY** of committing their first Intentional Program Violation under the SNAP. The Department's request to disqualify the Defendant from the SNAP is **GRANTED**. The Defendant is disqualified from the SNAP for a period of twelve months and must make restitution of \$458.73.

Alisha Laird

Alisha Laird
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
William Carrasquillo, DSS Lead Investigator

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within **45** days of the mailing of this decision, or **45** days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on § 4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served 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 the Commissioner's 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 appellant resides.