

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

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

Case ID # ██████████
Client ID # ██████████
Request # 218708

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 disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for a period of 12 months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by misrepresenting his household composition.

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 scheduled the administrative hearing for ██████████, 2023, and outlined the Defendant’s rights for these proceedings.

On ██████████ 2023, OLCRAH received an unsigned return receipt from the United States Postal Service (“USPS”). OLCRAH mailed the Defendant the entire packet again, including the hearing summary and proceedings notification, via first class mail. USPS did not return the packet and it is presumed to have been delivered to the Defendant.

On ██████████ 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 at the hearing and did not show good cause for failing to appear. The following individuals were present at the hearing:

Justin Michaud, Department's Investigator
Kristin Haggan, Fair Hearing Officer

STATEMENTS OF THE ISSUES

The first issue is whether the Defendant committed an IPV of the SNAP program.

The second issue is whether the Department can disqualify the Defendant from the SNAP program for a period of twelve (12) months.

FINDINGS OF FACT

1. The Defendant is [REDACTED] years old (DOB: [REDACTED]). (*Exhibit 2: ONAP*)
2. The Defendant is currently not receiving SNAP benefits. (*Department Investigator's Testimony*)
3. The Defendant has no previous IPV's. (*Department Investigator's Testimony, Exhibit 4: EDRS penalty printout*)
4. On [REDACTED] 2023, the Defendant submitted an online application ("ONAP") for SNAP benefits for himself and his [REDACTED]-year-old son. The Defendant reported no other household members on the ONAP. (*Exhibit 2*)
5. On [REDACTED], 2023, the Department processed the Defendant's ONAP and found information regarding his child's mother, [REDACTED], the legally liable relative (the "LLR") showing she is residing at the same address as the Defendant. The Department conducted a phone interview with the Defendant during which he reported that he lives upstairs with his son in the 2nd-floor apartment, and the LLR lives downstairs in the 1st-floor apartment. The Department referred the Defendant's case to the Investigations Unit. (*Hearing Summary, Department Investigator's Testimony*)
6. The Defendant's residence is a two-family home owned by the LLR's mother. (*Hearing Summary, Department Investigator's Testimony*)
7. On [REDACTED], 2023, the Investigator conducted a home visit to the Defendant's address of [REDACTED] [REDACTED]. The Defendant was not home. The LLR's mother was on the front porch and informed the Investigator that the LLR occasionally stays with her on the 1st floor when there are issues between her and the Defendant, but that all of the LLR's belongings are on the 2nd floor in the Defendant's apartment. She stated that the Defendant, the LLR, and the child are an intact family that live together on the 2nd floor of her house. (*Hearing Summary, Department Investigator's Testimony*)

8. On [REDACTED], 2023, the Department's Investigator conducted an address search for the LLR per the CT Department of Motor Vehicles ("DMV") driver's license and vehicle registration interfaces. Results showed that the LLR has a current and valid driver's license which was last renewed on [REDACTED], 2020, and lists her address as [REDACTED]. She has a vehicle registration that is current through [REDACTED] 2024, that also lists her at the same address in the 2nd-floor apartment. (*Exhibit 5: DMV Vehicle Registration and DMV License Search*)
9. On [REDACTED] 2023, the Department's Investigator called the Defendant and asked him if the LLR lived with him, and the Defendant stated yes. The Investigator informed the Defendant that the LLR would be added to his SNAP household. (*Department Investigator's Testimony*)
10. On [REDACTED], 2023, the Department's Investigator reviewed Theworknumber.com website and found that the LLR is listed as living at the same address as the Defendant in the 2nd-floor apartment and that at the time of the Defendant's application, she was employed at [REDACTED]. The Department added the LLR to the Defendant's household and updated her income. The Department denied the Defendant's SNAP application due to the household exceeding the income limit. (*Department Investigator's Testimony*)
11. On [REDACTED] 2023, the Department's Investigator mailed the Defendant a W-1447 ADH Process and Rights Information Sheet, a W-1448 Notice of Prehearing Interview, and a W-1449 Waiver of Disqualification Hearing Form. The due date for the Defendant to sign and return the waiver was [REDACTED] 2023. A pre-ADH interview was scheduled for [REDACTED], 2023. The Defendant did not show for the interview. (*Hearing Record, Department Investigator's Testimony, Exhibit 3: W1449, W-1448, W-1447*)
12. As of the date of the ADH, the Investigator has not received the signed ADH Waiver Form back from the Defendant. (*Department Investigator'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. This decision is due no later than [REDACTED] 2023.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides that 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.

Section 17b-88(2) 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 shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

7 C.F.R. § 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of an Intentional Program Violation.

The Department has the authority under state statute and federal regulation to initiate and hold Administrative Disqualification Hearings.

2. 7 C.F.R. § 273.16 (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.

On [REDACTED], 2023, OLCRAH mailed the Defendant notification of the initiation of the ADH process via certified mail. The Defendant did not sign for this mail. On [REDACTED], 2023, OLCRAH received the unsigned return receipt from the USPS. On [REDACTED], 2023, OLCRAH mailed the Defendant the notification again, this time via first class mail. The packet was not returned. The packets that were mailed to the Defendant contained the following information: the date, time, and place of the hearing; a summary of the Department's charges against the Defendant; a summary of the evidence, and how and where the Defendant can examine the

evidence; a warning that the decision will be based solely on the information provided by the State agency if the Defendant fails to appear at the hearing.

The Defendant did not have good cause for failing to appear for the ADH scheduled at the [REDACTED] Regional Office.

3. 7 C.F.R. § 273.16 (f) provides for waived hearings. Each State agency shall have the option of establishing procedures to allow accused individuals to waive their rights to an administrative disqualification hearing. For State agencies which choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures shall conform with the requirements outlined in this section.

The Department correctly notified the Defendant of his right to waive the ADH.

The Defendant did not return the signed waiver to the Department.

4. 7 C.F.R. § 273.1(a) provides for household concept and states that a household is composed of one of the following individuals or group 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. § 273.1(b)(1) provides for required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

- (i) Spouses;

- (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or stepparent(s);

The Department correctly determined that the Defendant's household consists of himself, the LLR, and their mutual child.

5. 7 C.F.R. § 273.16 (c) provides for the definition of Intentional Program Violation as follows: For purposes of determining through administrative disqualification hearings whether a person has committed an IPV, IPV's shall consist of having intentionally:

- (1) made a false or misleading statement, or misrepresented, concealed, or withheld facts.

7 C.F.R. § 273.16 (e) (6) provides that the hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation.

Based on clear and convincing evidence, the Department correctly determined that the LLR was residing in the Defendant's home at the time of his application.

The Department correctly determined that the Defendant's deliberate misrepresentation of his household composition is an IPV.

6. 7 C.F.R. § 273.16 (a) provides for administrative responsibility. (1)The State agency shall be responsible for investigating any cases of alleged Intentional Program Violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or a referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of Intentional Program Violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer to prosecution a case involving an over issuance caused by a suspected act of Intentional Program Violation, the State agency shall take action to collect over issuance by establishing an inadvertent household error claim against the household in accordance with procedures in § 273.18. The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formerly withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court or appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution of the current eligibility of the individual.

The Department did not refer the Defendant's case for civil or criminal prosecution.

7. 7 C.F.R. § 273.16(a)(3) provides the State agency shall base administrative disqualifications for Intentional Program Violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section or on determinations reached by courts of

appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for Intentional Program Violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

7 C.F.R. § 273.16(e)(8)(i) provides for imposition of disqualification penalties. If the hearing authority rules that the individual has committed an Intentional Program Violation, the household member must be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section. The same act of Intentional Program Violation repeated over a period of time must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16(b)(1)(i) provides for disqualification penalties. Individuals found to have committed an Intentional Program Violation either through an administrative disqualification hearing or by a Federal, State, or local court, or who have signed either a waiver of the right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the program for a period of twelve months for the first Intentional Program Violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section.

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

DISCUSSION

The Department has found through collateral contacts, a home visit, and an interview with the Defendant, that the LLR has been living with him since his SNAP application on [REDACTED] 2023.

The Defendant deliberately omitted the LLR from his application, even though he later admitted that she does live in his home. The Defendant deliberately reported to the Department that the LLR was living at a different address; however, when the Investigator made a home visit to that address, the homeowner stated that the LLR resides with the Defendant.

DECISION

Regarding whether the Defendant committed an IPV under the SNAP program, the Defendant is **GUILTY**.

Regarding the Department's request to disqualify the Defendant from SNAP and impose a first-offense SNAP penalty for twelve months due to an IPV, the Department's request is **GRANTED**.

Kristin Haggan

Kristin Haggan
Fair Hearing Officer

CC: OLCRAH.QA.DSS@CT.gov
Justin Michaud, Fraud Investigator

RIGHT TO APPEAL

The defendant has the right to appeal this decision to the Superior Court within 45 days of the mailing of this decision. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106, or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. A copy of the petition must also be served to all parties to the hearing.

The 45-day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or her designee following §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the defendant resides.