

**STATE OF CT
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 # 219561

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2023, 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 Nutritional Assistance Program ("SNAP") for a period of ten (10) years. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant receiving SNAP in the states of Georgia ("GA") and Connecticut ("CT") concurrently for the period of [REDACTED] 2022 through [REDACTED] 2023. The Department seeks to recover the overpaid SNAP benefits of \$114.00 for the period of [REDACTED] 2022 through [REDACTED] 2023, by billing the Defendant as prescribed by policy. This would be 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 Certified Mail contained the Notice of the administrative hearing and the Department's summarization of the actions taken. The certified mail was unclaimed and returned to the Department. On [REDACTED], 2023, OLCRAH sent the Appellant the notification and attachments via first-class mail. The notification outlined a 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 CT General Statutes, OLCRAH held an Administrative Disqualification

Hearing. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear.

The following individuals were present at the hearing:

Gonxhe Kalici, Representative for the Department
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

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

The second issue to be decided is whether the Department's proposal to disqualify the Defendant from participating in the SNAP program for a period of ten years is correct.

The third issue to be decided is whether the Department's proposal to recoup a SNAP overpayment of \$114.00 is correct.

FINDINGS OF FACT

1. Effective [REDACTED] 2022, the state of GA granted SNAP benefits for the Defendant. (Hearing Summary and Exhibit 1: Paris Interstate CFI Disposition Form, [REDACTED]/23)
2. On [REDACTED], 2022, the Defendant submitted an online application for SNAP in the State of CT. The Defendant did not provide information regarding past benefits received. (Hearing Summary and Exhibit 4: Online Application, [REDACTED]/22)
3. The Defendant was given the DSS Rights and Responsibilities as part of the online SNAP application outlining her responsibilities. The rights and responsibilities outline penalties for providing false information or breaking SNAP rules on purpose. This section states, "If I make a false or misleading statement, I may be subject to civil or criminal penalties". Additionally, it states, "If I break any of the rules on purpose I can be barred from SNAP from between one year and permanently, fined up to \$250,000 and/or imprisoned up to 20 years" (Hearing Summary and Exhibit 6: DSS Rights and Responsibilities)
4. On [REDACTED], 2022, the Defendant completed the SNAP telephone interview. The Defendant answered no to the question regarding receiving SNAP benefits in another state within 90 days. (Exhibit 5: Case note, [REDACTED]/22)
5. The Defendant signed her application and attested that "all of the information given on this form is true and complete to the best of my knowledge." (Hearing Summary and Exhibit 7: Electronic Signature page)

6. On [REDACTED], 2022, the Defendant was issued \$38.00 in SNAP benefits on her Electronic Benefits Transfer (“EBT”) card by the State of CT. (Exhibit 2: CT Transaction History)
7. On [REDACTED], 2022, the Defendant was issued \$23.00 in SNAP benefits by the State of GA. (Exhibit 3: GA Transaction History)
8. On [REDACTED] 2023, the Defendant completed a SNAP transaction for \$11.47 with her GA EBT card in Stamford, CT. (Exhibit 3)
9. On [REDACTED], 2023, at 8:53 AM, the Defendant completed a SNAP transaction for \$20.47 with her CT EBT card. (Exhibit 2)
10. On [REDACTED] 2023, at 9:40 PM, the Defendant completed a SNAP transaction for \$19.25 with her CT EBT card. (Exhibit 2)
11. On [REDACTED], 2023, the Defendant was issued \$38.00 in SNAP benefits by the State of CT (Ex. 2)
12. On [REDACTED] 2023, the Defendant was issued \$23.00 in SNAP benefits by the State of GA. (Exhibit 3)
13. On [REDACTED] 2023, at 4:48 PM, the Defendant completed a SNAP transaction for \$6.05 in Stamford, CT using her GA EBT card. (Exhibit 3)
14. On [REDACTED], 2023, at 4:50 PM, the Defendant completed a SNAP transaction for \$4.25 in Stamford, CT, using her GA EBT card. (Exhibit 3)
15. On [REDACTED] 2023, at 6:28 PM the Defendant completed a SNAP transaction for \$247.31, using her CT EBT card. (Ex. 2)
16. Effective [REDACTED] 2023, the Appellant was discontinued from SNAP in the state of GA. (Ex. 3)
17. On [REDACTED] 2023, the Department’s investigations division received a PARIS match HIT sheet indicating the Defendant active on GA SNAP effective [REDACTED], 2022, through [REDACTED] 2023. The HIT sheet indicated the Defendant received CT SNAP on [REDACTED]/2022. (Ex. 1)
18. As of the date of the ADH, the Defendant is active SNAP benefits in CT. (Department’s testimony)
19. From [REDACTED] r 2022 through [REDACTED] 2023, the Defendant used her CT EBT card to purchase food in the State of CT. (Exhibit 2)
20. From [REDACTED] 2022 through [REDACTED] 2023, the Defendant used her GA EBT to purchase food in the State of CT. (Exhibit 3)

21. From [REDACTED] 2022 through [REDACTED] 2023 the Defendant received the following SNAP benefits from CT while receiving SNAP from GA concurrently:

Month Issued	SNAP Received
[REDACTED] 2022	\$38.00
[REDACTED] 2023	\$38.00
[REDACTED] 2023	\$38.00
Total	\$114.00

(Exhibit 10: Benefit Issuance Search and Exhibit 11: Pending Overpayment Summary)

22. On [REDACTED] 2023, the Department mailed the Defendant a W-1448, Notice of Prehearing Interview Food Stamp Program. The notice informed the Defendant that she broke the rules of the SNAP on purpose and because of this there is an overpayment because she was receiving and using CT and GA SNAP benefits concurrently from the months of [REDACTED] 2022 through [REDACTED] 2023, causing an overpayment in SNAP benefits of \$114.00 (Department's Testimony and Exhibit 8: W-1448)
23. On [REDACTED], 2023, the Department mailed the Defendant a W-1449, Waiver of Disqualification Hearing SNAP. The notice informed the Defendant she broke the rules of the program on purpose, referring to it as an IPV, and that the Department disqualifies people who break the rules on purpose until the disqualification ends. The notice stated that people who lie about who they are, or where they live so they can get more than one SNAP award are disqualified for ten years. The notice informed the Defendant that the IPV caused a SNAP overpayment. The Department proposes to impose a SNAP penalty and disqualify the Defendant SNAP for 10 years. The due date to return the signed form was [REDACTED] 2023. (Exhibit 9: W-1449)
24. The Defendant has no prior SNAP IPV's. (Department's testimony and Exhibit 12: SNAP EDRS)
25. The Defendant did not contact the Department to discuss the charges or sign the waiver form. (Exhibit 9 and Department's testimony)
26. 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)
27. 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 initiation of the ADH process. On [REDACTED] 2023, the OLCRAH mailed the Defendant notification of the initiation of the ADH process. This decision is due [REDACTED] 2023, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(a)(7) of the 2018 Supplement to 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.

The Department has the authority to administer SNAP.

2. Title 7 of the Code of Federal Regulations (“C.F.R.”) § 273.2 (a) (2) provides the application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency must act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. States must meet application processing timelines, regardless of whether a State agency implements a photo EBT card policy. The State agency must make expedited service available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

The Department received the Appellant’s application on November 14, 2022.

3. 7 C.F.R. § 273.2(e)(1) provides in part that except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this sections, households must have a face to face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State Agencies may not require to report for an in office interview during their certification period, though they may request households to do so.
4. 7 C.F.R. § 273.2(e)(2) provides that 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.

The Appellant completed the required SNAP telephone interview.

5. Section 17b-88 of the Connecticut General Statutes provides that 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 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.

The Department has the authority to recover SNAP.

6. 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 over issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over issuance 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. 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 and 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 failed to sign for the packet.

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

8. 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 form sent to her by the Department on [REDACTED] 2023.

9. 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. § 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 intentionally concealing her concurrent receipt of SNAP benefits in Georgia and Connecticut.

The Defendant applied for SNAP in CT while active SNAP in the state of GA which demonstrates a clear intent to commit an IPV. The Defendant did not disclose on her application the fact that she was active SNAP in GA. The Defendant intentionally and willingly used both her GA and CT EBT cards concurrently over the course of three months which clearly shows intent to commit an IPV.

10. 7 CFR 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: (5) Except as provided under paragraph (b)(1)(iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.

11. 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 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 ten years.

12. 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) provides a recipient claim is an amount owed because of:

- (i) Benefits that are overpaid.

7 C.F.R. § 273.18 (a) (2) provides that a claim for overpaid benefits represents a Federal debt and that the State agency must develop an adequate plan for establishing and collecting claims.

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 she received during the IPV period.

13. 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 Defendant received \$114.00 in SNAP benefits during the IPV period and is correct to seek recoupment of those benefits from the Defendant.

DECISION

The Defendant is **GUILTY** of committing a first-offense IPV of the SNAP from [REDACTED] 2022 through [REDACTED] 2023.

With regard to the Department’s request to disqualify the Defendant from SNAP and impose a first-offense SNAP penalty for ten years, the Department’s request is **GRANTED**.

With regard to the Department’s request to recover the overpayment of \$114.00, the Departments request is **GRANTED**.

Scott Zuckerman
Scott Zuckerman
Hearing Officer

Pc: 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 CT 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 CT 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.