

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

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

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████████████████████
Request #: 223167

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 an Intentional Program Violation (“IPV”) by failing to report income from her spouse’s employment. The Department also seeks to recover overpaid SNAP benefits. The Department alleges that the SNAP overpayment totaled \$1,216.00 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”) delivered the certified mail to the Post Office, and she picked up the packet.

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 for the in-person ADH held at the [REDACTED] regional office on [REDACTED], 2023.

The following individuals were present at the hearing:

Jaimie McBride, Department's Representative
Amy MacDonough, Fair Hearing Officer

The hearing record remained open for the submission of additional evidence by the Department, including case notes and NOA. The Department provided the information on [REDACTED] 2023, and the hearing 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 \$1,216.00 for the period of [REDACTED] 2023 through [REDACTED] 2023.

FINDINGS OF FACT

1. On [REDACTED] 2022, the Department received a W-1E online application ("ONAP") for SNAP benefits from the Defendant, for a household of seven (7). The household consisted of the Defendant, the defendant's spouse, and 5 children. The Defendant only reported income for herself from employment with [REDACTED]. (*Department's Testimony; Exhibit 4: ONAP*)
2. On [REDACTED], 2022, the Department issued a NOA to the Defendant granting the Defendant's household SNAP benefits for the period of [REDACTED], 2022, through [REDACTED] 2023. (*Departments Testimony; Exhibit 5: NOA*)
3. The NOA states the Defendant must report if her household's total gross income is more than \$4,347.00 monthly. The NOA states "you must report changes to us by the 10th day of the month following the month of the change". (*Exhibit 5*)
4. On [REDACTED], 2023, the Department received an ONAP requesting SNAP benefits for a household of seven (7). The Defendant only reported income for herself from employment with [REDACTED]. The Department used the ONAP in place of the renewal of benefits form. (*Department's Testimony; Exhibit 6: ONAP*)

5. On [REDACTED], 2023, the Department processed the ONAP as a SNAP renewal. The Department located unreported income for the Defendant's spouse from employment with [REDACTED]. The Department verified the income through an online interface known as The Work Number / Equifax. (*Department's Testimony; Exhibit 8: Work Number/Equifax Report*)
6. On [REDACTED] 2022, the Defendant's spouses began working for [REDACTED]. The Defendant's spouse received the following wages for the period from [REDACTED] 2022, to [REDACTED], 2023:

| Pay Date: | Gross Wages: |
|-------------------------------|-------------------|
| [REDACTED]/2022 | \$1,400.00 |
| [REDACTED]/2022 | \$1,750.00 |
| [REDACTED]/2022 | \$1,750.00 |
| [REDACTED] 2022 Total: | \$4,900.00 |
| [REDACTED]/2023 | \$1,400.00 |
| [REDACTED] 2023 | \$1,400.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$1,825.00 |
| [REDACTED] 2023 Total: | \$6,375.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$2,100.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED] 2023 Total: | \$7,350.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED]/2023 | \$1,750.00 |
| [REDACTED] 2023 Total: | \$8,750.00 |

(Exhibit 8)

7. The Defendant received the following income for [REDACTED] for the period from [REDACTED] 2022, to [REDACTED] 2023:

| Pay Date: | Gross Wages: |
|-------------------------------|-------------------|
| [REDACTED]/2022 | \$1,047.69 |
| [REDACTED]/2022 | \$1,997.69 |
| [REDACTED]/2022 | \$1,047.69 |
| [REDACTED]/2022 | \$1,047.69 |
| [REDACTED]/2022 | \$1,047.69 |
| [REDACTED] 2022 Total: | \$6,188.45 |
| [REDACTED] 2023 | \$1,047.69 |
| [REDACTED]/2023 | \$1,047.69 |

| | |
|-------------------------------|-------------------|
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████ 2023 Total: | \$4,190.76 |
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████ 2023 Total: | \$4,190.76 |
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████/2023 | \$1,047.69 |
| ██████████ 2023 Total: | \$4,190.76 |

(Exhibit 7: Work Number/Equifax Report)

8. The total gross income for the Defendant's household for the months of ██████████ 2023 and ██████████ 2023 are as follows:

| Month | Total Gross Income |
|-----------------|-------------------------------------|
| ██████████ 2023 | \$11,540.76 (\$7,350.00+\$4,190.76) |
| ██████████ 2023 | \$12,940.76 (\$8,750.00+\$4,190.76) |

9. On ██████████ 2023, the Department denied the Defendant application for SNAP because the household's gross monthly income is more than the limit for this program. (Exhibit 14: Case Note; Exhibit 15: NOA)
10. On ██████████ 2023, the Department mailed the Defendant a Notice of Prehearing Interview ("W-1448") scheduling an appointment for ██████████ 2023, at 11:00 a.m. requesting that the Defendant contact the Department. 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 11: W-1448; Exhibit 12: W-1449)
11. The Defendant did not contact the Department to reschedule the appointment and did not sign the waiver form. (Department's Testimony)
12. The Department's Investigations unit completed an investigation concerning the misrepresentation of the Defendant's household income and determined the Defendant's household's total gross income exceeded the income limit for a household of seven (7), resulting in overpayments of the SNAP program beginning ██████████ 2023 and ending ██████████ 2023. (Department's Testimony; Exhibit 9: Benefit Issuance Search; Exhibit 13: SNAP Calculator)

13. The Defendant failed to report her spouse's income from employment on the application, used as a renewal, received by the Department on [REDACTED] 2023. (*Exhibit 6: ONAP*)
14. The Defendant has no prior intentional violations of the SNAP program. (*Department's Testimony; Exhibit 10: Search of DQ-EDRS*)
15. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV when the Defendant failed to report her spouse's income from employment to the Department on her application form, used as a renewal. This would be the first disqualification penalty under the SNAP for the Defendant. (*Department's Testimony; Exhibit 1: W-262CF; Exhibit 10*)
16. The Department seeks to recover \$1,216.00 in overpaid SNAP benefits for the period of [REDACTED] 2023 through [REDACTED] 2023 because the Defendant failed to follow the SNAP reporting rules when she failed to report her spouse's employment income within the reporting timeframe. The Defendant received the following benefits for [REDACTED] 2023 and [REDACTED] 2023:

| Month | Received |
|-----------------|-------------------|
| [REDACTED] 2023 | \$608.00 |
| [REDACTED] 2023 | \$608.00 |
| Total | \$1,216.00 |

(*Department's Testimony; Exhibit 1; Exhibit 9; Exhibit 11; Exhibit 13*)

17. The Department is not seeking recoupment of the additional pandemic benefits issued under the SNAP on [REDACTED], 2023. (*Department's Testimony; Exhibit 9*)
18. 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*)
19. 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 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

- 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 for overpayments; recoupment; administrative disqualification hearings and states 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 benefits.

3. 7 C.F.R. § 273.16(a)(1) provides for administrative responsibility and states 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(c) provides for the definition of intentional program violation and states 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 Defendant withheld the fact that her spouse began receiving income from employment when she submitted her application, used as a renewal, for benefits on ██████████ 2023.

5. 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 Department provided clear and convincing evidence that the Defendant committed and intended to commit an IPV because she intentionally withheld the information regarding her spouse's employment from the Department.

6. 7 C.F.R. § 273.16(e)(3) provides for advance notice of hearing and states (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 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 and states 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 official is required to carefully consider the evidence and determine if 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 official 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, 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 was mailed to the Defendant. The Defendant signed for the packet 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.

7. 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 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 Defendant did not sign or return the Waiver of Disqualification Hearing form (w-1449) the Department sent to her on [REDACTED] 2023.

8. 7 C.F.R. § 273.16(b)(1)(i) provides for disqualification penalties and states 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: 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(8) provides for 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.

9. 7 C.F.R. § 273.9(a)(1)(i) provides for income eligibility standards and states the gross income eligibility standard for SNAP shall be as follows: the income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

7 C.F.R. § 273.9(a)(4) states the monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/snap.

| Months | ██████████ 2023 | ██████████ 2023 |
|----------------------------------|-----------------|-----------------|
| Households Adjusted Gross income | \$11,540.76 | \$12,940.76 |
| Gross income limit (200% FPL) | \$6,985.00 | \$6,985.00 |

The Department correctly determined the SNAP gross income limit for a household of seven (7) as \$6,985.00 (\$41,910.00 FPL for seven/12 months = \$3,492.50* 200% of FPL= \$6,985.00).

The Defendant's household income for ██████████ 2023 was \$11,540.76 and \$12,940.76 for ██████████ 2023. The Defendant's household's gross income exceeded the income limit of \$6,985.00 for the period of ██████████ 2023 and ██████████ 2023.

- 10.7 C.F.R. § 273.18(c)(1) provides for calculating the claim amount not related to trafficking and states (A) determine the correct amount of benefits for each month that a 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; (C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment; (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.

The Department correctly determined the Defendant was overpaid for the months of ██████████ 2023 and ██████████ 2023.

The Department correctly calculated the total overpayment claim to be \$1,216.00 for the period of ██████████ 2023 through ██████████ 2023.

11.7 C.F.R. § 273.16(b)(12) provides for disqualification penalties and states 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)(i) provides for claims against households and states a recipient claim is an amount owed because of benefits that are overpaid.

7 C.F.R. § 273.18(a)(2) states 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.

7 C.F.R. § 273.18(a)(3) states as a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

7 C.F.R. § 273.18(a)(4) states 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 proposed a recoupment of an IPV overpayment for the period of [REDACTED] 2023 through [REDACTED] 2023.

DECISION

1. The Defendant is **GUILTY** of committing a SNAP Intentional Program Violation for knowingly misrepresenting her household's income on her application, used as a renewal, for SNAP benefits. The Defendant failed to report her spouse's income from employment. The Department may disqualify the Defendant from participating in the SNAP for a period of 12 months.
2. The Department is authorized to seek recovery of the \$1,216.00 in SNAP benefits that the Defendant received as a result of an IPV.


Amy MacDonough
Fair Hearing Officer

CC: OLCRAH.QA@CT.gov
Jaimie McBride, 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.