

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

██████████ 2024
Signature Confirmation

██████████
██████████
Request # 222406

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek the disqualification of ██████████ (the “Defendant”), from participating in the Supplemental Nutrition Assistance Program (“SNAP”) for twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) due to an unauthorized use of the deceased member’s benefits. The Department seeks to recover \$370.07 in unauthorized SNAP benefits. This is the Defendant’s first IPV offense in the SNAP.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) notified the Defendant and ██████████ (the “attorney”), her attorney of the initiation of the ADH process via certified mail delivery. The notification outlined the Defendant’s rights in these proceedings. The hearing was scheduled for ██████████ 2023.

On ██████████ 2023, the Defendant signed the United States Postal Service (“USPS”) certified mail delivery receipt.

On ██████████ 2023, the attorney signed the United States Postal Service (“USPS”) certified mail delivery receipt.

On [REDACTED] 2023, in accordance with sections 17b-60, 17-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Disqualification Hearing. The following individuals were present at the hearing:

[REDACTED], Defendant

[REDACTED], Attorney

Catherine Scillia, Investigator, Department's Representative via telephone

Maureen McAuliffe, Department's Hosting Representative

Carla Hardy, Hearing Officer

The hearing record remained open until [REDACTED], 2024, for the Defendant to submit additional information and for the Department to comment. The Defendant submitted additional information. The hearing record closed on [REDACTED], 2024.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an IPV of the SNAP, is subject to disqualification from program participation for 12 months.

The second issue to be decided is whether the Department's proposal to recoup a \$370.07 SNAP claim is correct.

FINDINGS OF FACT

1. The Defendant and her attorney participated in the ADH proceedings. (Hearing Record)
2. On [REDACTED] 2023, [REDACTED] (the "deceased member") passed away. (Hearing Record)
3. The deceased member was a recipient of SNAP benefits. (Exhibit 8A: The Deceased Member's EPPIC Recipient Transaction History, Hearing Record)
4. The deceased member did not have an authorized representative on his SNAP case. (Exhibit 10: Authorized Representative Summary, Hearing Record)
5. The Defendant and the deceased member resided together for 20 years. (Attorney's Testimony)
6. The Defendant is currently receiving SNAP benefits. (Department's Testimony)
7. The Defendant and the deceased member resided at the same address, [REDACTED] [REDACTED] Connecticut, but had separate SNAP cases. (8A, 8B: Defendant's EPPIC Recipient Transaction History, Hearing Record)

8. EPPIC is the computer system that the Department uses to verify the date, time, and store location where an EBT card was utilized. (Investigator's Testimony)
9. The deceased member's EBT card was used several times after his [REDACTED] 2023, date of death. (Exhibit 8A)
10. On [REDACTED] 2023, the Defendant contacted the Department's vendor to request a budget sheet for the deceased member. The vendor notified the Defendant that she was not an authorized representative for his case and that she must complete form W298. (Exhibit 7: Case Notes)
11. On [REDACTED], 2023, an individual called the Department's vendor to request a password reset on the deceased member's case. The password was reset and the individual was given a temporary password. (Exhibit 7)
12. On [REDACTED] 2023, the Department was notified that the deceased member expired on [REDACTED] 2023. The Department expunged the \$164.85 that remained in the deceased member's SNAP account. (Exhibit 7, Exhibit 8A; Hearing Record)
13. On [REDACTED] 2023, the Department reviewed the deceased member's SNAP transactions which showed that his EBT card was utilized on the dates below:

Date	Store Name	Time	Program Type	Amount
[REDACTED]/23	[REDACTED]	16:22	SNAP	\$7.49
[REDACTED]/23	[REDACTED]	16:38	SNAP	\$272.03
[REDACTED] 23	[REDACTED]	19:08	SNAP	\$5.12
[REDACTED]/23	[REDACTED]	18:12	SNAP	\$11.72
[REDACTED]/23	[REDACTED]	17:42	SNAP	\$43.36
[REDACTED]/23	[REDACTED]	21:49	SNAP	\$27.07
[REDACTED]/23	[REDACTED]	22:00	CASH	\$3.28
Total				\$370.07

(Exhibit 8A, Exhibit 13: After Hearing [REDACTED] Transactions, Hearing Record)

14. The \$3.28 transaction that occurred on [REDACTED] 2023, was made with the deceased member's cash account, not the SNAP. (Exhibit 8A)
15. Three hundred sixty-six dollars and seventy-nine cents (\$370.07 - \$3.28 = \$366.79) of the deceased member's **SNAP** benefits were used after his death. (Facts # 13 and 14)
16. The Defendant used her EBT card on the same date and at the same store that the deceased member's EBT card was used for the following transactions:

Date	Store Name	Time	Program	Amount
█/23	█	19:08	SNAP	\$19.23
█/23	█	21:59	SNAP	\$5.78

(Exhibit 8B)

17. The last four digits of the Defendant's EBT card number ends with 2153 and the deceased member's card ends with 8139. (Exhibits 8A and 8B)
18. On █ 2023, the Defendant used \$5.12 of the Deceased member's SNAP benefit with \$19.23 of her SNAP benefit to complete a \$24.35 transaction at █
█ (Exhibit 13)
19. On █ 2023, the Defendant completed a \$9.25 transaction at █
She paid for this transaction with \$5.78 from her EBT SNAP balance, \$3.28 from the deceased member's EBT cash balance, and \$.19 with a debit card. (Exhibit 9: █ Receipts and Loyalty Card Information)
20. On █ 2023, the Department mailed the Defendant a W-1448 Notice of Prehearing Interview ("W-1448") informing her of the proposed \$370.07 SNAP overpayment and a W-1449 Waiver of Disqualification Hearing ("W-1449") for the SNAP informing her that she could contact the Department for more information about the IPV and disqualification, sign the waiver, or not sign the waiver. The Defendant was given a deadline of █ 2023, to respond. (Exhibit 2: Notice of Prehearing Interview Food Stamp Program ("W1448") Exhibit 3: Waiver of Disqualification Hearing SNAP Program ("W1449"))
21. On █ 2023, the Defendant contacted the Department regarding the W1448 and W1449 that she received. She informed the Department that she was going to sign the W1448 and the W1449 and return it to the Department's investigator. (Exhibit 1: W262 Narrative (Hearing Summary))
22. On █ 2023, the Department's Investigator contacted █. She requested verification of the EBT transactions that were made with the deceased member's EBT card on █ 2023, █ 2023, and █ 2023. (Exhibit 1)
23. On █ 2023, the Department received documentation from █ confirming that the Defendant's loyalty card was used with the deceased member's SNAP EBT transactions on █, 2023, for \$5.12, and █ 2023, for \$27.07. (Exhibit 9)
24. The Defendant's █ loyalty card was used to transact \$32.19 (\$5.12 + \$27.07 = \$32.19) with the deceased member's EBT card. (Fact # 23)
25. On █ 2023, █, a Community Care Coordinator with █ signed a letter reporting she is working with the Defendant

addressing “this matter”. She indicated that the Defendant had difficulty understanding and addressing the issue timely due to traumatic events in her life. (Exhibit 12: Letter from [REDACTED])

26. [REDACTED] is the Defendant’s former Case Manager. (Defendant’s Testimony)
27. On [REDACTED] 2023, the Defendant returned the W1448 and the W1449 to the Department. She exercised her right to have an administrative hearing. (Exhibit 1, Exhibit 3)
28. The Department did not provide loyalty card information for five of the seven transactions that they listed as trafficked SNAP benefits. (Hearing Record)
29. The [REDACTED] 2023, transaction for \$3.28 was a cash transaction, not a SNAP transaction. (Exhibit 8A)
30. The Defendant has no prior IPV’s. (Exhibit 11: Electronic Disqualification Recipient System (“EDRs”) Results, Department’s Testimony)
31. The Department is seeking to disqualify the Defendant from participating in the SNAP for one year and is seeking recovery of \$370.07 in a SNAP claim due to an IPV of trafficked benefits. (Hearing Record)
32. The issuance of the decision is timely based on Title 7 of the Code of Federal Regulations Section § 273.16(e)(2)(iv) which provides that within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision, and notify the household member and local agency of the decision. The Department notified the Defendant on [REDACTED] 2023; therefore, this decision is due no later than [REDACTED], 2024. However, the hearing record remained open for an additional 28 days at the request of the Defendant. Because of this 28-day delay, the hearing decision is due [REDACTED] 2024. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.

3. Title 7 of the Code of Federal Regulations (“C.F.R.”) Section 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.

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

The Department has the authority to administer the SNAP program and conduct Administrative Disqualification Hearings.

4. Title 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

Title 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 Department properly notified the Defendant of the ADH on [REDACTED] 2023.

The Defendant and her attorney were present at the hearing.

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

The Defendant's case has not been referred for civil or criminal prosecution. The Department correctly initiated administrative disqualification proceedings.

7. Title 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 exercised her right to have an administrative hearing.

8. Title 7 C.F.R. § 274.7(a) provides that program benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households, the purchase of prepared meals, and for other households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with benefits.
9. Title 7 C.F.R. § 273.2(n) provides that an authorized representative may be authorized to act on behalf of a household in the application process, in obtaining SNAP benefits, and in using SNAP benefits.

The Department did not have documented evidence that the Defendant was the deceased member's authorized representative.

The Department correctly determined that the Defendant was not authorized to use the deceased member's benefits after his death.

10. Title 7 C.F.R. § 271.2 defines trafficking as:

(1) The buying, selling, stealing, or otherwise affecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

11. Title 7 C.F.R. § 273.16(c) provides that Intentional Program violations shall consist of having intentionally: (1) made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) committed any act that constitutes a violation of the 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.

Title 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.

The Department correctly determined that stealing SNAP is a trafficking offense.

The Defendant intended to commit and committed an IPV when she used the deceased member's SNAP benefits.

The Defendant's deliberate use of the deceased member's EBT card after his death constitutes an IPV.

12. Title 7 C.F.R. § 273.16(e)(8)(i) provides that 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 procedure in paragraph (b) of this section. The same act of intention Program violation repeated over a period must not be separated so that separate penalties can be imposed.

Title 7 C.F.R. § 273.16(b)(1)(i) provides that 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.

Title 7 C.F.R. § 273.16(b)(5) provides for disqualification penalties and states that individuals found to have committed an IPV shall be ineligible to participate in the program for a period of twelve months for the first IPV, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section.

The Department is correct to seek the Defendant's disqualification from participating in the SNAP for twelve months. The hearing record clearly and convincingly establishes that the Defendant intentionally used the deceased member's SNAP EBT card after his death.

13. Title 7 C.F.R. § 273.16(b)(12) provides that even though the individual is disqualified, the household, as defined in § 273.1, is responsible for making restitution for any overpayment. All IPV claims must be established and collected in accordance with the procedures set forth in § 273.18.
14. Title 7 C.F.R. § 273.18(a)(1)(ii) provides a recipient claim is an amount owed because of benefits that are trafficked. Trafficking is defined in 7 C.F.R. 271.2.

Title 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.

Title 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. (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.

The Department correctly determined the claim was the result of an IPV.

15. Title 7 C.F.R. § 273.18(c)(2) provides for calculating the claim amount from 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 transactions initiated on [REDACTED] 2023, for \$5.12 and, [REDACTED] 2023, for \$27.07 are the only SNAP transactions that were initiated with the Defendant's [REDACTED] loyalty card.

The Department did not provide clear and convincing evidence that the transactions for \$7.49, \$272.03, \$11.72, and \$43.36 that were utilized with the deceased member's SNAP account were conducted by the Defendant.

The transaction for \$3.28 was conducted with the deceased member's cash account, not his SNAP account.

The Department clearly and convincingly proved that the Defendant trafficked the deceased member's SNAP benefits for \$32.19 (\$5.12 + \$27.07 = \$32.19).

The Department incorrectly determined that \$370.07 in SNAP benefits were trafficked between [REDACTED], 2023, through [REDACTED] 2023.

The Department incorrectly proposed a SNAP claim for \$370.07.

The correct SNAP claim is \$32.19.

DISCUSSION

In a memorandum of law submitted by the Appellant, several arguments are presented. First, the Defendant contends that she was the deceased member's authorized representative. The Department's records do not show that the Defendant was the authorized representative. However, if she was an authorized representative, she did not have authorization to use the deceased member's SNAP after his death because she was not accessing SNAP for his benefit.

Secondly, the Defendant was determined to be disabled by the Social Security Administration based on mental health impairments. She was also grieving the loss of her partner and under stress. She submitted a letter from her Psychotherapist who voiced her understanding as to how the Defendant could make a mistake with accessing the deceased member's benefits. The undersigned disagrees that these transactions were mistakes. The [REDACTED] transactions on [REDACTED] 2023, [REDACTED] 2023, and [REDACTED] 2023, are evidence of the Defendant's purposeful use of her [REDACTED] loyalty card with her SNAP benefits and the deceased member's benefits to make purchases.

She also submitted a character letter from the [REDACTED]. The Defendant's good character is not in question.

Additionally, she submitted Connecticut General Statutes § 53a-54a regarding intent when it comes to murder. Murder intent is outside of the scope of proving an IPV. The regulations are clear. The Defendant committed an IPV when she committed an act that constitutes a violation of SNAP. She stole the deceased member's SNAP benefits after his death when she accessed his benefits in conjunction with her [REDACTED] rewards card. The Department was correct to charge her with an IPV.

DECISION

The Defendant is **GUILTY** of committing her first SNAP IPV due to trafficking. She is disqualified and ineligible to participate in the SNAP for one year. The Department is authorized to seek recovery of \$32.19 in restitution from the Defendant.

ORDER

1. The Department shall rescind any notices requesting recovery of \$370.07 in SNAP benefits from the Defendant.
2. The Department shall issue a new notice requesting recovery of \$32.19 from the Defendant.
3. Compliance with this order shall be submitted to the undersigned no later than [REDACTED] 2024.

_____ *Carla Hardy* _____
Carla Hardy
Hearing Officer

Pc: Quality Assurance, Department of Social Services
Catherine Scillia, Investigator, Department of Social Services
[REDACTED]

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.