

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

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

██████████
██████████
Request # 225385

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
██████████

REASON FOR HEARING

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received a request for an Administrative Disqualification Hearing (“ADH”) seeking disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for twelve (12) months from the Department of Social Services (“Department”) Investigations and Recoveries Division (“Investigations Unit”). The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by trafficking SNAP benefits. The Department also seeks to recover overpaid SNAP benefits of \$1,456.63.

On ██████████ 2023, the OLCRAH mailed the Defendant a Notice of Administrative Hearing (“NoAH”) via United States Postal Service (“USPS”) certified mail to the residential address of ██████████ informing the Defendant that the Department scheduled an Administrative Disqualification hearing for ██████████ 2023. The NoAH included notification of the Defendant’s rights in these proceedings, the Department’s hearing summary, and evidence supporting the Department’s case against the Defendant.

On ██████████ 2023, the OLCRAH checked the certified mail tracking number ██████████ and received the following response from the USPS, “Delivery Attempt: Action Needed. Reminder to Schedule Redelivery of your item before ██████████ 2023.”

On [REDACTED] 2023, the OLCRAH mailed the Defendant the Non-Receipt of Administrative Disqualification Hearing Notice with the NoAH and a copy of the complete ADH packet including notification of rights in these proceedings, the Department's hearing summary and evidence to support the Department's case to the Defendant via first class mail to the same address, [REDACTED].

The ADH packet sent by first class mail on [REDACTED] 2023, was not returned by the USPS and is presumed to have been delivered to the Defendant.

On [REDACTED] 2023, OLCRAH conducted the ADH in accordance with section 17b-88 of the Connecticut General Statutes and Title 7 of the Code of Federal Regulations section 273.16, subsection (e).

The Defendant did not appear for the ADH held on [REDACTED] 2023.

The following individuals were present at the hearing:

Catherine Scillia, Fraud Investigator / Department's Representative
Jessica Gulianello, Hearing Officer

The hearing record remained open until the close of business on [REDACTED] 2023, to allow the Department time to submit additional information. Additional documents were received, and the hearing was closed accordingly.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation ("IPV") of the SNAP and is subject to a twelve (12) month disqualification penalty under the SNAP.

A secondary issue to be decided is whether the Department's proposal to pursue a SNAP overpayment claim for the period of [REDACTED] 2022, through [REDACTED] 2022, in the amount of \$1,456.63 is correct.

FINDINGS OF FACT

1. The Defendant is [REDACTED] years old (DOB: [REDACTED]). (*Exhibit 3: Online Application dated [REDACTED] 2023, Exhibit 4A: Notice of Renewal of Eligibility ("W1ER") dated [REDACTED] 2022, Exhibit 4B: W-1ER dated [REDACTED] 2021, Exhibit 14: ImpaCT Household Composition*)
2. The Defendant was a recipient of benefits under the SNAP. (*Exhibit 7: EPPIC Recipient Transaction History, Hearing Record*)

3. The Defendant has no prior IPV disqualifications in the U.S. (*Exhibit 2: EDRs Query, Hearing Record*)
4. [REDACTED] is located at [REDACTED]. The store sells groceries and hot food items. Microwaves are available for on-site use to heat coffee/tea but there are no chairs or tables for customers. (*Exhibit 12: FNS General Store Information/Characteristics*)
5. [REDACTED] does not have shopping baskets and/or shopping carts available for customers. (*Exhibit 12: FNS General Store Information/Characteristics, Department's Testimony*)
6. The most expensive items for sale at [REDACTED] are: 19.9 oz Enfamil listed for \$29.00, 1 case (24) 0.5L bottles of Poland Spring Water listed for \$14.00, and Jack Links Jerky listed for \$09.99. (*Exhibit 12: FNS General Store Information/Characteristics, Department's Testimony*)
7. The Defendant conducted the following EBT transactions in SNAP benefits at [REDACTED] located at [REDACTED]:

Date:	Time:	Amount:	Household	Method:
[REDACTED] 2022	[REDACTED] PM	\$199.89	[REDACTED]	Manual
[REDACTED] 2022	[REDACTED] PM	\$60.20	[REDACTED]	Manual
[REDACTED] 2022	[REDACTED] PM	\$250.10	[REDACTED]	Manual
[REDACTED] 2022	[REDACTED] PM	\$120.00	[REDACTED]	Swipe
[REDACTED] 2022	[REDACTED] PM	\$140.02	[REDACTED]	Swipe
[REDACTED] 2022	[REDACTED] PM	\$196.36	[REDACTED]	Swipe
[REDACTED] 2022	[REDACTED] PM	\$83.91	[REDACTED]	Swipe
[REDACTED] 2022	[REDACTED] PM	\$166.25	[REDACTED]	Swipe
[REDACTED] 2022	[REDACTED] AM	\$80.21	[REDACTED]	Swipe
[REDACTED] 2022	[REDACTED] AM	\$159.69	[REDACTED]	Swipe

The EBT Transactions totaled \$1,456.63.

(*Exhibit 11: USDA FNS Attachments 1-3: [REDACTED], Department's Testimony*)

8. On [REDACTED] 2023, the United States Department of Agriculture ("USDA"), Food and Nutrition Services ("FNS"), SNAP Program charged [REDACTED] located at [REDACTED], with trafficking in SNAP based on analysis of their records which reflected EBT transactions that established clear and repetitive patterns of unusual, irregular, and inexplicable activity for that type of firm. (*Ex. 10: USDA Charge letter, [REDACTED] 2023*)
9. On [REDACTED] 2023, the USDA, FNS, SNAP division notified [REDACTED] located at [REDACTED], that trafficking

violations occurred at their business and permanently disqualified the merchant from participating in SNAP. (Exhibit 13: USDA Determination letter, ██████████ 2023, Hearing Summary, Department's Testimony)

10. The Department received an anti-fraud data report alert with the EBT Retailer Transactions at ██████████ ██████████ ██████████ ██████████ from the USDA FNS after the disqualification of the business. The Defendant's client ID number appeared on the list. (Exhibit 11: USDA FNS Attachments 1-3: ██████████ dated ██████████ 2023, Hearing Summary, Department's Testimony)

11. In ██████████ 2023, the above-noted anti-fraud alert was assigned to Catherine Scillia, (the Department's "Investigator") for further review. The Department reviewed the transactions and concluded that the Defendant's transactions (as previously listed), involved multiple transactions from his account within a set period, the bulk of his benefits were depleted within short time frames, and his transactions were large based on the observed store characteristics and recorded food stock. (Exhibit 11: USDA FNS Attachments 1-3: ██████████, Department's Testimony, Hearing Summary, Department's Testimony)

12. On ██████████ 2023, the Department's Investigator, verified the Defendant's EBT Transaction History in EPPIC as follows:

Date:	Time:	Amount:	Client ID Number
██████████ 2022	██████████	\$199.89	██████████
██████████ 2022	██████████	\$60.20	██████████
██████████ 2022	██████████	\$250.10	██████████
██████████ 2022	██████████	\$120.00	██████████
██████████ 2022	██████████	\$140.02	██████████
██████████ 2022	██████████	\$196.36	██████████
██████████ 2022	██████████	\$83.91	██████████
██████████ 2022	██████████	\$166.25	██████████
██████████ 2022	██████████	\$80.21	██████████
██████████ 2022	██████████	\$159.69	██████████

The EBT Transactions totaled \$1,456.63.

(Exhibit 7: EPPIC Recipient Transaction History ██████████ 2022 – ██████████ 2022)

13. The Department concluded that the Defendant's EBT transactions reflected in EPPIC coincided with the USDA FNS Attachments 1-3. Furthermore, the specific trafficking patterns / "Red Flag Indicators" matched. (Department's Testimony)

14. On ██████████ 2023, the Department issued the Defendant a Notice of Prehearing Interview ("W-1448") scheduling a phone interview for ██████████ 2023. The notice

directed the Defendant to contact the Department's Investigator by calling [REDACTED]. The notice alleged that the Defendant trafficked EBT benefits under the SNAP, and he received \$1,456.63 more than he should have in Food Stamp Benefits. The Department also issued a Waiver of Disqualification Hearing ("W-1449") notice advising the Defendant of the Department's proposal to disqualify him from the SNAP due to the alleged IPV. (*Exhibit 8: W1448, Exhibit 9: W-1449, Department's Summary, Department's Testimony*)

15. On [REDACTED] 2023, the Defendant failed to complete the prehearing telephone interview. (*Hearing Summary, Department's Testimony*)
16. The Defendant had not contacted the Department's Investigator to discuss the alleged charges. (*Department's Testimony*)
17. The Defendant did not return the Waiver of Disqualification form. (*Department's Testimony*)
18. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of one (1) year due to an alleged IPV that the Defendant trafficked EBT under the SNAP at [REDACTED] through ten (10) separate transactions that occurred beginning [REDACTED] 2022, ending [REDACTED] 2022, that totaled \$1,456.63. (*Hearing Record*)
19. 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*)
20. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear. (*Hearing Record*)

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.

The Department has the authority to administer the SNAP.

2. 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 (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.

Title 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 (“IPV”).

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

3. 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 Department properly notified the Defendant of the ADH hearing.

The Defendant was not present at the hearing, nor did he show good cause for failing to appear.

4. Title 7 of the Code of Federal Regulations (“CFR”) 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 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 ADH was properly initiated by the Department.

5. 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 failed to sign and return the disqualification consent agreement.

6. 7 C.F.R. § 271.2 defines trafficking as the buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; 2. The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of Title 21, United States Code, for SNAP benefits; 3. Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount. 4. Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food. or 5. Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food. 6. Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

7 C.F.R. § 273.16(c) defines IPV as follows: For purposes of determining through administrative disqualification hearings whether or not 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, or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or

reusable documents used as part of an automated delivery system. (access device).

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.

7 C.F.R. § 284.1(a) provides Section 1101 of the Families First Coronavirus Response Act (FFCRA; Pub. L. 116–127), as amended, authorized supplemental allotments to certain households. These benefits shall be referred to as Pandemic Electronic Benefits Transfer (P–EBT) benefits throughout this section. This section establishes the retailer integrity regulations for P–EBT for retailers in any State as defined in Section 3(r) of the Food and Nutrition Act.

7 C.F.R. § 284.1(b)(1) defines trafficking as activities described in the definition of trafficking at § 271.2 of this chapter when such activities involve P–EBT benefits.

The Department provided clear and convincing evidence demonstrating that the Defendant committed trafficking of his SNAP resulting in an IPV.

7. 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 intentional Program violation repeated over a period must not be separated so that separate penalties can be imposed.

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.

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 correctly seeks to disqualify the Defendant for a first IPV resulting in ineligibility of participation in the SNAP for a period of twelve (12) months.

8. 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 the amount of any overpayment. All intentional Program violation claims must be established and collected in accordance with the procedures set form in § 273.18.

7 C.F.R. § 273.18 (a) provides claims against households. (a) General. (1) recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined in 7 C.F.R. 271.2. (2) 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. (3) 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 corrective action to correct any deficiencies in the plan. (4) 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; (ii) A person connected to the household, such as an authorized representative; who actually traffics or otherwise causes and overpayment of trafficking.

7 C.F.R. § 273.18 (c)(2)(iii) provides for calculating the claim amount. Trafficking related claims. Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by the documentation that forms the basis for the trafficking determination.

The Department correctly determined the Defendant committed an IPV of the SNAP and incurred a SNAP overpayment of \$1,456.63 due to trafficking violations. The Department is correct to seek recoupment of \$1,456.63 in SNAP benefits from the Defendant.

DISCUSSION

Based on the testimony and evidence, I find that the Department established clear and convincing evidence to support that the Defendant is guilty of an intentional program violation of the SNAP. While the Defendant did not appear at the Administrative Disqualification Hearing or provide evidence to dispute the charges, I find that [REDACTED], where the Defendant conducted the SNAP transactions in question, was permanently disqualified from participating in the SNAP program due to trafficking in SNAP benefits. The evidence supports that the Defendant conducted transactions at the market that demonstrate irregular, unusual, and repetitive patterns of trafficking.

DECISION

The Defendant is **GUILTY** of committing a first offense Intentional Program Violation in the SNAP program.

The Defendant is disqualified from the program for a period of one year and must make restitution of \$1,456.63, the amount of the overpayment, subject to recovery.

Jessica Gulianello

Jessica Gulianello
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Catherine Scillia, DSS Investigator
Sarah Chmielecki & Tim Latifi SSOM's DO ■

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.