

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

████████████████████
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 225698

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 Nutritional Assistance Program ("SNAP") for a period of 12 months. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") because of the Defendant's unauthorized use of an EBT card. This is the Defendant's first IPV offense in the SNAP program. The Department further seeks to recover the unauthorized SNAP benefits for ██████████.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the defendant of the initiation of the ADH process via certified mail. The Defendant signed for the certified mail per the United States Postal Service ("USPS") tracking on ██████████. The notification outlined the Defendant's rights in these proceedings. OLCRAH scheduled the ADH for ██████████.

On ██████████, 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 Defendant was not present at the hearing.

The following individuals were present at the hearing:

Amy Hayden, Investigation Supervisor
Shawn Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The first issue is whether the Defendant committed an IPV of the SNAP program and the Department is correctly disqualifying him from SNAP benefits for 12 months.

The second issue is whether the Defendant must repay the benefits he improperly used for the period from [REDACTED] through [REDACTED].

FINDINGS OF FACT

1. The Defendant, [REDACTED] lives at [REDACTED]. (Hearing Summary, Exhibit 10: Case-Search/Summary, Exhibit 11: Periodic Report Form dated [REDACTED].)
2. The Defendant received her own benefits in the months of [REDACTED] through [REDACTED] under the SNAP program for a household of one. (Exhibit 10, Exhibit 11)
3. On [REDACTED] [REDACTED], the Department received a referral about unauthorized use of [REDACTED] EBT card after his death. (Hearing Summary, Exhibit 1: Investigations Fraud Referral [REDACTED])
4. The EBT card holder [REDACTED]" died on [REDACTED]. (Exhibit 8: State of CT Certificate of Death)
5. Prior to his death [REDACTED] lived at [REDACTED], [REDACTED] and received benefits under SNAP. (Hearing Record, Exhibit 6: Case – Search/Summary results, Exhibit 8)
6. The EBT card issued to [REDACTED] prior to his death ended in [REDACTED]. (Exhibit 4: EBT Transaction Detailed Report)
7. At the time of [REDACTED] death, [REDACTED] was not listed as an Authorized Representative, or as an Authorized Shopper on file with the Department. (Exhibit 6: Case- Search/Summary, Exhibit 7: Notice of Renewal of Eligibility [REDACTED])

8. On [REDACTED], the Defendant called the Department's benefit center to conduct a SNAP interview on behalf of the decedent. The Defendant had an unknown male impersonate the decedent, granting permission for the Department to speak with the Defendant on their behalf. The Defendant reported that she lives with the decedent, they are not legally married, and purchase and prepare their own meals. (Hearing Summary, Exhibit 9: Case note [REDACTED])
9. On [REDACTED], the Defendant called the Department's benefit center inquiring about the decedent's SNAP benefits as the EBT card belonging to the decedent was not active. The Defendant had an unknown male impersonate the decedent to authorize the Department to speak to the Defendant. (Hearing Summary, Exhibit 9)
10. On [REDACTED], the Defendant contacted 211 requesting replacement EBT card for the decedent. (Exhibit 9)
11. On [REDACTED], the Defendant contacted 211 requesting replacement EBT card for the decedent. (Exhibit 9)
12. On [REDACTED], an EBT card ending in [REDACTED] was issued to the decedent at [REDACTED]. (Hearing Record)
13. Between [REDACTED], and [REDACTED], there were 13 calls to check the balance of the decedent's EBT card. (Exhibit 5: VERINT Card search [REDACTED])
14. EBT card ending in [REDACTED] was used at [REDACTED], [REDACTED] gas station between [REDACTED], and [REDACTED].

Date of Transaction	Time of Transaction	Amount of Transaction
[REDACTED]	1:54:47 pm	\$100.88 - [REDACTED]
[REDACTED]	8:41:27 pm	\$141.23 - [REDACTED]
[REDACTED]	9:07:18 pm	\$10.07 - [REDACTED]
[REDACTED]	2:51:21 pm	\$60.56 - [REDACTED]
[REDACTED]	3:25:54 pm	\$33.31 - [REDACTED]
[REDACTED]	4:01:46 pm	\$49.17 - [REDACTED]
[REDACTED]	4:57:24 pm	\$12.98 - [REDACTED]
[REDACTED]	10:12:52 pm	\$11.34 - [REDACTED]
[REDACTED]	10:11:44 pm	\$45.18 - [REDACTED]
[REDACTED]	10:18:09 pm	\$24.40 - [REDACTED]
Total		\$ [REDACTED]

(Hearing Summary, Exhibit 4)

15. EBT card ending in [REDACTED] was used at [REDACTED], and [REDACTED] between [REDACTED], and [REDACTED].

Date of Transaction	Time of Transaction	Amount of Transaction
[REDACTED]	9:04:04 pm	\$12.49 - [REDACTED]
[REDACTED]	12:10:40 pm	\$50.35 - [REDACTED]
[REDACTED]	6:53:29 pm	\$56.71 - [REDACTED]
[REDACTED]	7:12:50 pm	\$4.84 - [REDACTED]
[REDACTED]	6:29:35 pm	\$ 5.14 - [REDACTED]
[REDACTED]	1:52:49 pm	\$2.89 - [REDACTED]
[REDACTED]	4:05:09 pm	\$186.98 - [REDACTED]
[REDACTED]	4:07:38 pm	\$2.44 - [REDACTED]
[REDACTED]	9:01:04 pm	\$15.64 - [REDACTED]
[REDACTED]	9:25:53 am	\$14.14 - [REDACTED]
[REDACTED]	2:28:41 pm	\$17.47 - [REDACTED]
Total		\$ [REDACTED]

16. On [REDACTED], the Defendant completed and signed a Periodic Report Form (PRF) for SNAP benefits acknowledging Rights and Responsibilities. "I am not allowed to use, or have in my possession, an EBT card that is not mine (unless I am an authorized SNAP shopper)". "If I intentionally misuse an Electronic Benefit Transfer (EBT) card, I may no longer get SNAP. I may also be fined up to \$250,000.00 or sent to jail for up to 20 years or both. Misuse of an EBT card means altering, selling, or trading a card, **using someone else's card without permission**, or exchanging benefits." (Exhibit 11: Periodic Report Form, (signed/dated by Defendant [REDACTED] [REDACTED] Exhibit 12: PRF mailed to Defendant dated [REDACTED])
17. On [REDACTED], the Department mailed the Defendant a W-1448, Notice of Prehearing Interview Food Stamp Program. The notice stated that the Department believes you broke the rules of the SNAP program on purpose. "There is an overpayment related to this situation. You received [REDACTED] more than you should have in Food Stamp benefits. This happened because you used the SNAP/EBT card issued to [REDACTED] after his death on [REDACTED]. The Department scheduled an appointment for [REDACTED], at [REDACTED] with the Defendant to discuss the proposed IPV. (Exhibit 14: W-1448, Notice of Prehearing Interview [REDACTED])
18. On [REDACTED], the Department sent the Defendant a W-1449, Waiver of Disqualification Hearing SNAP Program. The Waiver stated the Department believes the Defendant broke the rules of the SNAP program on purpose, and that the Defendant may be disqualified from the program for one year due to this intentional program violation. The form states by signing the waiver the Defendant gives up her right to an administrative

disqualification hearing. (Exhibit 15: DSS, Waiver of Disqualification, SNAP Program)

19. On [REDACTED], the Department sent the Defendant an Administrative Disqualification Hearing Process and Rights Information Sheet detailing the purpose, location of hearing, scheduling of hearing, attendance at hearing, hearing rights, failure to appear, good cause for failure to appear, and hearing decision. (Hearing Record, Exhibit 16: Administrative Disqualification Hearing Process and Right Information Sheet)
20. The Defendant has had no prior Intentional Program Violations (Hearing Record, Exhibit 17: Report of Suspected Intentional Program Violation Overpayment W-262CF).
21. On [REDACTED], the Defendant contacted the Department to deny using the decedent's EBT card and that she would be attending the hearing scheduled on [REDACTED]. The Defendant did not appear for the pre-ADH interview and has not had any further contact with the Department, and she did not submit a signed waiver. (Hearing Summary)
22. As of the date of the Hearing, [REDACTED], the Department has not received any documentation that the EBT card holder gave permission to the Defendant authorizing use of the EBT card prior to his death. (Hearing Record)
23. 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 the Department issue a decision within 90 days of the initiation of the ADH process. On [REDACTED], the OLCRAH mailed the Defendant notification of the initiation of the ADH process. Therefore, this decision is due no later than [REDACTED].

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. The Department's Uniform Policy Manual ("UPM") "is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990))

3. 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.
4. "If the assistance unit member or his or her representative cannot be located or fails to appear at a hearing without good cause, the hearing is conducted without the assistance unit member being represented." UPM § 7050.25(D)(3)
5. Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.16(a)(1) provides as follows:

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.

“The State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.” 7 C.F.R. § 273.16(e)

6. Federal regulation provides in part that Trafficking means: 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.

7 C.F.R. § 271.2 Definitions. Trafficking (1)

The Defendant colluded with an unknown male to impersonate the descendant to dishonestly obtain their SNAP benefits. (FOF #8, #9)

7. Federal regulation provides as follows:

The State agency shall base administrative disqualifications for intentional Program Violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section or on determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

7 C.F.R. § 273.16(a)(3)

“Definition of intentional Program violation. Intentional Program violations shall consist of having intentionally: (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. C.F.R. § 273.16(c)(2)

“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, intentional Program violation as defined in [paragraph \(c\)](#) of this section.” 7 CFR 273.16(e)(6)

8. "Disqualification Penalties". Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of 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 paragraph (b)(2), (b)(3), (b)(4), and (b)(5) of this section." 7 C.F.R § 273.16(b)(1)(i)
9. "Length of Disqualification. If the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is determined as follows: When the court order does not specify a period of disqualification, the Department determines the length of the disqualification based upon the individual's previous history of intentional recipient error as follows: for the first offense, the length of disqualification is one year." UPM § 7050.30(B)(2)(b)(2)(a)
10. "*Disqualification Penalties*. 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. § 273.16(b)(12)
11. "In the AFDC and Food Stamp programs the Department conducts Administrative Disqualification Hearings in certain instances of alleged intentional recipient error as an alternative to referrals to the court system for prosecution. Individuals who are determined to have committed an intentional recipient error are subjected to recoupment requirements and, in some cases, are disqualified from the AFDC and/or Food Stamp programs for a specified amount of time." UPM § 7050
12. "Accessing Benefits Deposited in an EBT Account. EBT SNAP benefits may be accessed by a. the head of the assistance unit; b. an authorized representative of the assistance unit; c. an individual acting as an emergency authorized representative." UPM § 6515.15(A)(2)
13. "*Obtaining SNAP benefits*. An authorized representative may be designated to obtain benefits. Even if the household is able to obtain benefits, it should be encouraged to name an authorized representative for obtaining benefits in case of illness or other circumstances which might result in an inability to obtain benefits. The name of the authorized representative must be recorded in the household's case record. The authorized representative for obtaining benefits may or may not be the same individual designated as an authorized representative for the application process or for meeting

reporting requirements during the certification period.” 7 C.F.R. § 273.2(n)(2)

14. “If the person redeeming EBT SNAP benefits is an authorized representative and not the head of the assistance unit, the person's name and the client's identification number must appear on the Department issued debit card.” UPM § 6515.15(A)(4)
15. “Using benefits. A household may allow any household member or nonmember to use its EBT card to purchase food or meals, if authorized, for the household. Drug or alcohol treatment centers and group living arrangements which act as authorized representatives for residents of the facilities must use SNAP benefits for food prepared and served to those residents participating in SNAP (except when residents leave the facility as provided in § 273.11(e) and (f)).” 7 C.F.R. § 273.2(n)(3)

The Defendant was not listed as an authorized representative on the EBT card holder’s assistance unit.

The card holder did not notify the Department in writing or orally of an emergency authorized representative.

The Defendant was not given a specially issued EBT/Debit card.

The Department established with clear and convincing evidence that the Defendant violated the Right and Responsibilities listed on the W-0016RR which confirms acknowledgment that improper EBT card usage leads to disqualification.

The Department met its burden to establish by clear and convincing evidence that the Defendant committed an intentional program violation pertaining to SNAP.

Discussion

The Department incorrectly calculated the amount in SNAP benefits unlawfully used by the Defendant between [REDACTED], and [REDACTED]. EBT cards [REDACTED] and [REDACTED] belonging to [REDACTED] were used to purchase [REDACTED] worth of food items during this period, the Department incorrectly calculated the amount as [REDACTED].

DECISION

1. The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program.
2. The Department's appeal to disqualify the Defendant from SNAP and impose the SNAP penalty for twelve months is granted.
1. With regards to the Department's request to recover the overpayment of [REDACTED], the request is **GRANTED.**

Shawn P. Hardy

Shawn P. Hardy
Hearing Officer

Cc: OLCRAH.QA.DSS@ct.gov✉

Theresa Deangelis, DSS Operation Manager, New Britain, CT, Resource Center

Nicole Matos, DSS Operation Manager, New Britain. CT, Resource Center

Amy Hayden, Investigations Supervisor

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.