

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

██████████, 2023  
SIGNATURE CONFIRMATION

CASE # ██████████  
CLIENT ID # ██████████  
REQUEST # ██████████

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the “Department”) made a request for an Administrative Disqualification Hearing (“ADH”) to seek disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for a period of twelve months. The Department alleges the Defendant committed an Intentional Program Violation (“IPV”) by using another individual’s Electronic Benefit Card (“EBT”) without permission. Additionally, the Department seeks to recover a SNAP overpayment (“OP”) totaling \$1,770.08.

On ██████████ 2023, the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) mailed the Defendant notification of the initiation of the ADH process scheduled for ██████████ 2024, which included notification of his rights in these proceedings, via certified mail via the United States Postal Service (“USPS”).

On ██████████, 2024, the OLCRAH mailed the Defendant notification of the ADH process scheduled for ██████████, 2024 (as prior mailing was returned to OLCRAH due to address discrepancy), which included notification of his rights in these proceedings, via certified mail via the USPS.

On [REDACTED] 2024, the Defendant confirmed receipt of the certified mail with his signature.

On [REDACTED] 2024, the certified mail card displaying the Defendant's signature was received by the OLCRAH.

On [REDACTED], 2024, 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 following individuals were present at the hearing:

Amy Hayden, Department of Social Services Investigations Supervisor  
Joseph Alexander, Administrative Hearing Officer

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

### **STATEMENT OF THE ISSUE**

The first issue to be decided is whether the Defendant committed an IPV of the SNAP and is therefore subject to a twelve-month disqualification penalty.

The second issue to be decided is whether the Defendant is responsible for making restitution of the \$1,770.08 SNAP OP.

### **FINDINGS OF FACT**

1. On [REDACTED] 2021, the Defendant's mother, [REDACTED] passed away. (Hearing Record)
2. On [REDACTED] 2023, the Department's Investigations Division received a referral from the Department's Resources Department alleging the Defendant may have used his deceased mother's SNAP benefits/EBT card following her passing. It was discovered that the Defendant's telephone number, [REDACTED] was used to check the balance on [REDACTED] EBT card after discovering the Defendant contacted the Department's Benefit Center to request a new EBT cards. (Exhibit 1: Referral Information)
3. On [REDACTED], 2023, the Department's Investigation Division reviewed both [REDACTED] and the Defendant's EBT transactions. The review of [REDACTED] EBT transactions concluded a total of sixty-five transactions were made totaling \$1,770.08 following her passing; an additional three transactions were denied due to either insufficient funds or incorrect PIN entry. A total of sixty-one calls from the Defendant's telephone number, [REDACTED], were placed to check the balance

of [REDACTED] EBT card, and two additional calls were made from the same number to the Department's Benefit Center to request replacement/new EBT cards following MS. Bastek's passing. The review of the Defendant's EBT transactions concluded twenty-four calls were made from his telephone number to check the balance of his EBT card, and that on [REDACTED], 2021, both [REDACTED] and the Defendant's EBT cards were swiped/redeemed at Stop & Shop in [REDACTED] at 8:34pm within six seconds of one another. (Exhibit 2: EBT SNAP Benefit Usage for [REDACTED] and [REDACTED])

4. On [REDACTED] 2023, a search of the EDRS yielded zero prior disqualifications from the SNAP for the Defendant. (Exhibit 4: EDRS Screen-print)
5. On [REDACTED], 2023, a W-1448 "Notice of Prehearing Interview Food Stamp Program" and a W-1449, "Waiver of Disqualification Hearing SNAP Program" and a copy of the "Administrative Disqualification Hearing Process and Rights Information Sheet" were mailed to the Defendant. The W-1448 informed the Appellant an interview was scheduled to be held in person at the New Britain regional office on [REDACTED], 2023, at 11:00am. The W-1449 specified the Defendant needed to sign and return said form to the Department by [REDACTED], 2023, to avoid administrative or legal action against him. (Exhibit 5: W-1448, W-1449 and Rights and Information Sheet)
6. On [REDACTED], 2023, the W-1448, W-1449 and Hearing Process Rights Sheet were returned to the Department by USPS with a "Return to Sender, Temporarily Away, Unable to Forward" sticker attached to the envelope. (Exhibit 6: Return Mail)
7. On [REDACTED], 2023, Investigations Division Supervisor A. Hayden discovered the Defendant had reapplied for SNAP on [REDACTED] 2023. On the application the Defendant indicated he was homeless and reported a mailing address of [REDACTED]. The Defendant also reported an email address, [REDACTED] to which a new W-1448, W-1449 and Rights and Information Sheet were sent to; The W-1448 specified a date/time/location of [REDACTED] 2023 at 10:00am at the New Haven Regional Office located at 50 Humphrey Street, New Haven CT. (Exhibit 7: [REDACTED]/23 Copies of W-1448, W-1449 and Rights and Information Sheet)
8. The Defendant did not appear for the interview nor did the Department receive any further returned mail. (Hearing Record)

9. On [REDACTED], 2023, the Investigations Supervisor reviewed [REDACTED] case details and discovered the following: (1) She was residing at [REDACTED] [REDACTED] at the time of her death, (2) she had not appointed an Authorized Representative or an Authorized Shopper, (3) per [REDACTED] case notes, calls were placed to the 211 Infoline requesting EBT card replacements on [REDACTED] 2021 and [REDACTED] 2021, and two calls were placed to the Department from the Defendant on [REDACTED] 2021 requesting EBT card replacement (Defendant not listed as AREP therefore Dept. denied request). [REDACTED] was deceased when the calls were placed to 211 and the Department. (Exhibit 3: [REDACTED] Case Summary/Case Notes, [REDACTED] Case Notes)
10. On [REDACTED] 2023, the Investigations Supervisor reviewed the Defendant's case details and discovered the following: (1) He was residing at [REDACTED] [REDACTED] at the time of [REDACTED] passing, (2) he submitted an application for assistance on [REDACTED], 2020, indicating he was residing with [REDACTED], (3) he submitted another application on [REDACTED] 2021 listing [REDACTED] address, (4) both applications list the Defendant's phone number [REDACTED] for contact. (Exhibit 3: [REDACTED] Case Summary/Case Notes, [REDACTED] Address Information, [REDACTED] 2020, and [REDACTED] 2021, applications)
11. On [REDACTED], 2023, the Department determined the Defendant had electronically and physically signed the various applications (listed in this decision) therefore he agreed that he had read the forms, including the rights and responsibilities provided with the forms, or had it read to him in a language he understood thus he agreed to comply with the SNAP program rules. (Exhibit 3: Rights and Responsibilities form)
12. The Department has determined the Defendant has committed an IPV of the SNAP because he used the SNAP/EBT benefits issued to, and intended for, [REDACTED] [REDACTED] after her death despite being aware of the SNAP rules and requirements. Additionally, review of the case details revealed no mitigating circumstances to substantiate this violation was unintentional. (Hearing Record)
13. The Department has also determined a SNAP OP totaling \$1,770.08 resulted from the Defendant's use of [REDACTED] EBT card/SNAP benefits between [REDACTED] [REDACTED], 2021, and [REDACTED] 2021. (Exhibit 2: [REDACTED] EBT Transaction Report)
14. This case has not been submitted for criminal or civil prosecution. (Department Representative Testimony)

15. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve months due to an IPV which occurred when the Defendant utilized [REDACTED] EBT card/SNAP benefits following her death to make purchases for himself. (Hearing Record)
16. The Department seeks to recover from the Defendant, overpaid SNAP benefits totaling \$1,770.08. (Hearing Record)
17. 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 within [REDACTED] 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 a hearing, arrive at a decision and notify the household member and local agency of the decision. On [REDACTED], 2024, the Defendant received and signed for the certified mail making this decision due no later than [REDACTED], 2023.

### **CONCLUSIONS OF LAW**

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) 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 and oversee the SNAP.**

2. Conn. Gen. Stat. § 17b-88 provides 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 nutritional assistance program receives an 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 actions 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 nutritional assistance program, the aid to the families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

#### **The Department has the authority to initiate and hold Administrative Disqualification Hearings.**

3. 7 C.F.R. § 273.16(a)(1) provides as follows. “The State agency shall be responsible for investigating any cases of alleged Intentional Program Violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or a 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 to prosecution a case involving an over issuance caused by a suspected act of Intentional Program Violation, the State agency shall take action to collect over issuance by establishing an inadvertent household error claim against the household in accordance with 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 or time and the referral was formerly 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 or 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 of the current eligibility of the individual.”

**The Department has the authority to investigate cases of alleged IPV and initiate administrative disqualification procedures. The Department correctly investigated the allegations against the Defendant as this case has not been referred for prosecution. The Department correctly initiated administrative disqualification procedures based on the evidence of IPV gathered through the investigative process.**

4. 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. (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 information provided by the State agency if the individual fails to appear at the hearing.

**The ADH notice that included a summary of the Department's charges was delivered and left with the Defendant on [REDACTED], 2024.**

5. 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 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.

**The Defendant received proper notice of the hearing and did not establish good cause for failing to participate in the hearing process.**

6. 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 benefit delivery system (access device).

7. 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 Defendant's deliberate and repeated use of his deceased mothers EBT card/SNAP benefits constitute an Intentional Program Violation (IPV).**

**The Defendant intended to commit, and committed an IPV when he used his deceased mother's EBT card/SNAP benefits for himself. The Defendant's repeated use of his deceased mother's EBT card/SNAP benefits is evidence of intent.**

**The hearing record clearly and convincingly establishes the Defendant intentionally used his deceased mother's EBT card/SNAP benefits to gain access to benefits to which he was not entitled.**

8. 7 C.F.R. § 273.16 (b)(1)(i) provides for disqualification penalties as follows. (1) "Individuals found to have committed an Intentional Program Violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: (i) 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."
9. 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.
10. 7 C.F.R. § 273.16(e)(8)(ii) provides that 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.

**The Department is correct to seek the Defendant's disqualification from participation in the SNAP for a period of twelve months as this is his first IPV.**

11.7 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.

7 C.F.R. § 273.18 (a) (1) provides a recipient claim is an amount owed because of: (i) Benefits that are overpaid.

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

7 C.F.R. § 273.18 (a) (4) provides that the following are responsible for paying a claim: (i) Each person who was an adult member of the household when the overpayment or trafficking occurred.

7 C.F.R. § 273.18 (b) provides for types of claims. There are three types of claims. (1) Intentional Program Violation. Any claim for an overpayment or trafficking resulting from an individual committing an IPV.

**The Defendant has been found guilty of committing an IPV therefore he is responsible for making restitution of the overpayment resulting from the IPV.**

12.7 C.F.R. § 273.18 (c) provides for calculating the claim amount— (1) Claims not related to trafficking. (i) As a state agency you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment and or an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

7 C.F.R. § 273.18 (c) (1) (ii) provides for the actual steps in calculating a claim. (A) determine the correct amount of benefits for each month that a household received an overpayment.


**The Department correctly determined the Defendant, through the IPV, gained access to \$1,770.08 of SNAP benefits he was not entitled to.**

**The Department is correct in seeking recoupment of \$1,770.08 in SNAP benefits from the Defendant.**

**DECISION**

The undersigned hearing officer finds the Defendant guilty of committing an Intentional Program Violation of the SNAP. The Department's request to disqualify the Defendant from participation in the SNAP for a period of twelve months is **GRANTED**.

The Undersigned hearing officer finds the Defendant is responsible for making full restitution of the \$1,770.08 SNAP overpayment.

  
**Joseph Alexander**  
Administrative Hearing Officer

CC: [OLCRAH.QA.DSS@ct.gov](mailto:OLCRAH.QA.DSS@ct.gov)  
Amy Haden, Investigations Supervisor, DSS

### **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.