

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 # ██████████  
CLIENT# ██████████  
REQUEST# 228886

ADMINISTRATIVE DISQUALIFICATION HEARING  
NOTICE OF DECISION  
PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek disqualification of ██████████ (the “Defendant”) from participating in the Supplemental Nutrition Assistance Program (“SNAP”) program for a period of twelve (12) months. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”) by trafficking her SNAP benefits. The Department further seeks to recover the overpaid SNAP benefits in the amount of ██████████.

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 notification scheduled the administrative hearing for ██████████. The notification also outlined a Defendant’s rights in these proceedings.

On ██████████, the Defendant confirmed receipt of the certified mail with her signature.

On ██████████, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████, Defendant  
William Carrasquillo, Department Representative  
Shawn P. Hardy, Hearing Officer

The hearing record remained open for the submission of additional evidence from the Department, specifically verification of any authorized shopper's and Right's & Responsibilities of the SNAP head of household. ██████████, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Defendant committed an IPV of the SNAP program, is subject to disqualification from the program for twelve months, and whether the resulting overpayment is subject to recovery.

### **FINDINGS OF FACT**

1. The Defendant is no longer receiving SNAP benefits. (Department's Testimony)
2. The Defendant has no previous IPV disqualifications. (Exhibit 7: Electronic Disqualification Recipient System ("EDRS") Printout, Department's Testimony)
3. On ██████████, ██████████, located at ██████████ in ██████████, was charged with trafficking because a United States Department of Agriculture ("USDA") Food and Nutrition Service ("FNS") analysis of store records and a review of the store's characteristics and food stock established clear and repetitive patterns of unusual, irregular, and inexplicable EBT activity between ██████████ and ██████████. The USDA proposed to permanently disqualify ██████████, from participating in the SNAP program. (Exhibit 5: USDA Charge Letter dated ██████████)
4. On ██████████, the USDA upheld its decision to permanently disqualify ██████████ from participating in the SNAP program. ██████████ was permanently disqualified upon receipt of the ██████████ UDSA letter. (Exhibit 5)
5. The Defendant's client identification number appeared in EBT transactions completed at ██████████ between ██████████, and ██████████, and she was identified as a potential participant in SNAP trafficking at the merchant as a result of the USDA FNS investigation. (Hearing Record, Exhibit 1: ██████████ EBT Transaction History)

6. "My ex-husband [REDACTED] took the EBT card without my knowledge, he may have visited the store, I've never shopped there. He was living in the household in [REDACTED] and [REDACTED]." (Defendant's Testimony)
7. The Defendant was SNAP Head of Household during [REDACTED] and [REDACTED] r [REDACTED] and was issued EBT card ending in [REDACTED] (Hearing Record, Exhibit 8)
8. On multiple dates the Defendant conducted EBT transactions at [REDACTED] [REDACTED] located at [REDACTED]. The table below lists the dates, times and amount of each transaction that occurred. In [REDACTED], the Defendant conducted the following SNAP EBT transactions at [REDACTED]:

| Date of Transaction | Time of Transaction | Amount of Transaction |
|---------------------|---------------------|-----------------------|
| [REDACTED]          | 7:39 pm             | \$7.00                |
| [REDACTED]          | 7:44 pm             | \$10.00               |
| [REDACTED]          | 2:21 pm             | \$8.00                |
| [REDACTED]          | 10:46 am            | \$13.50               |
| [REDACTED]          | 8:56 am             | \$4.00                |
| [REDACTED]          | 11:01 am            | \$6.00                |
| [REDACTED]          | 1:09 pm             | \$17.50               |
| [REDACTED]          | 3:36 pm             | \$6.00                |
| [REDACTED]          | 2:56 pm             | \$9.50                |
| [REDACTED]          | 7:02 pm             | \$13.50               |
| [REDACTED]          | 9:47 am             | \$15.00               |
| [REDACTED]          | 4:38 pm             | \$17.50               |
| [REDACTED]          | 8:45am              | \$13.50               |
| [REDACTED]          | 9:23 am             | \$56.00               |
| [REDACTED]          | 11:02 am            | \$11.18               |
| [REDACTED]          | 1:52p               | \$10.00               |
| [REDACTED]          | 2:31 pm             | \$47.75               |

(Exhibit 1: [REDACTED] EBT Transaction History.)

9. On multiple dates the Defendant conducted EBT transactions at [REDACTED] [REDACTED], located at [REDACTED]. The table below lists the dates, times and amount of each transaction that occurred. In [REDACTED], the Defendant conducted the following SNAP EBT transactions at [REDACTED]:

| Date of Transaction | Time of Transaction | Amount of Transaction |
|---------------------|---------------------|-----------------------|
| [REDACTED]          | 11:13am             | \$42.00               |
| [REDACTED]          | 8:44 am             | \$39.89               |
| [REDACTED]          | 2:00 pm             | \$13.00               |

|            |            |         |
|------------|------------|---------|
| ██████████ | 6:02pm     | \$9.50  |
| ██████████ | 8:50 am    | \$11.50 |
| ██████████ | 9:43 am    | \$14.50 |
| ██████████ | 10:01am    | \$5.00  |
| ██████████ | 1:12 pm    | \$6.00  |
| ██████████ | 1:33 pm    | \$19.50 |
| ██████████ | 1:34 pm    | \$2.00  |
| ██████████ | 9:16 am    | \$10.50 |
| ██████████ | 5:34 pm    | \$8.50  |
| Total      | ██████████ |         |

10. The total value of the Defendant's questionable transactions that occurred at ██████████ was ██████████. These transactions were deemed questionable by the USDA FNS because there were multiple transactions ending with a .00, .25, .50, .75 cent value, multiple transactions within a 24-hour period, and transaction of a high dollar amount based on store characteristics and recorded stock. (Hearing Summary, Department's Testimony)
11. The record is void of evidence regarding the store's characteristics, food stock, and store pricing. (Hearing Record)
12. On ██████████, the Department issued the Defendant a W-1448 Notice of Prehearing Interview form for the SNAP program advising her that her EBT transactions had been flagged by a USDA FNS alert and an overpayment of ██████████ was being established related to the alert. The notice further stated that the Defendant should contact the Department's representative by ██████████ if the Defendant wished to discuss the trafficking charge and subsequent overpayment. (Exhibit 2: W-1448 Notice of Prehearing Interview)
13. On ██████████, the Defendant failed to contact the Department to schedule or complete the prehearing interview. (Department's Testimony)
14. On ██████████, the Department issued the Defendant a W-1449 Waiver of Disqualification Hearing form which notified the Defendant that the trafficking IPV caused a ██████████ overpayment for the period of ██████████ through ██████████, and listed repayment options. The form also notified the Defendant that the Department proposed a twelve-month disqualification period due to the IPV. (Exhibit 3: W-1449 Waiver of Disqualification Hearing Form)
15. The Defendant did not return the (W-1449) Waiver of Disqualification Hearing Form to the Department. (Department's Testimony)

16. The Defendant's case has not been referred to the state police, prosecuting authority, or the attorney general for recovery in the court system. (Department's Testimony)
17. The Defendant did not request a new EBT card during the trafficking period. (Department's Testimony; Exhibit 8: Card Replacement Search)
18. The issuance of this decision is timely under Title 7 section 273.16(e)(20)(iv) of the Code of Federal Regulations ("C.F.R.") which requires that the agency issue a decision within 90 days of the notice of the initiation of the ADH process. On [REDACTED], OLCRAH mailed the Defendant notification of the initiation of the ADH process, however due to the extending of the closing of the hearing record by seven days for the submission of additional information, this decision is due no later than [REDACTED], and is timely.

### **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 for Overpayments, Recoupment, and Administrative disqualification hearings and states if a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and shall consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

#### **The Department has the authority to recover SNAP benefits.**

3. 7 C.F.R. § 273.16(a)(1) provides for administrative responsibility and states the State agency shall be responsible for investigating any case of alleged intentional Program violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in [paragraph \(c\)](#) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with the procedures in [§ 273.18](#). The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

7 C.F.R. § 273.16(e) provides for disqualification hearings and states the State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation.

**The Defendant's case has not been referred for civil or criminal prosecution.**

**The Department has properly initiated the ADH.**

4. 7 C.F.R. § 273.16(e)(3) provides for advance notice of hearing and states (i) The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either first class mail or certified mail-return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held. (ii) If no proof of receipt is obtained, a timely (as defined in [paragraph \(e\)\(4\)](#) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall establish the circumstances in

which non-receipt constitutes good cause for failure to appear. Such circumstances shall be consistent throughout the State agency. (iii) the notice shall contain at 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; (E) A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing; (F) A warning that a determination of intentional Program violation will result in disqualification periods as determined by [paragraph \(b\)](#) of this section, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing; (G) A listing of the individual's rights as contained in [§ 273.15\(p\)](#); (H) A statement that the hearing does not preclude the State or Federal Government from prosecuting the individual for the intentional Program violation in a civil or criminal court action, or from collecting any overissuance(s); and (I) If there is an individual or organization available that provides free legal representation, the notice shall advise the affected individual of the availability of the service. (iv) A copy of the State agency's published hearing procedures shall be attached to the 30-day advance notice, or the advance notice shall inform the individual of his/her right to obtain a copy of the State agency's published hearing procedures upon request. (v) Each State agency shall develop an advance notice form which contains the information required by this section.

7 C.F.R. § 273.16(e)(4) provides for the scheduling of hearing and states the time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid, and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in [paragraph \(e\)\(3\)\(ii\)](#) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

**OLCRAH properly notified the Defendant of the ADH on [REDACTED]. On that date, a packet containing the date, time and location of the hearing, a summary of the charges against the Defendant, a summary of the evidence and a warning that the decision will be based solely on the information provided by the State agency if the Defendant fails to appear at the hearing was mailed to the Defendant. On [REDACTED], the Defendant signed for the packet.**

**The Defendant appeared for the scheduled ADH on [REDACTED]**

5. 7 C.F.R. § 273.16(a)(3) provides for administrative responsibility and states that the State agency shall base administrative disqualifications for intentional Program violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with [paragraph \(e\)](#) of this section or on determinations reached by courts of appropriate jurisdiction in accordance with [paragraph \(g\)](#) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with [paragraph \(f\)](#) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with [paragraph \(h\)](#) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

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

6. 7 C.F.R. § 271.2 provides for definitions and states Trafficking means: (1) 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. 7 C.F.R § 273.16(c) provides for definition of intentional Program violation and states Intentional Program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) Committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.
8. 7 C.F.R. § 273.16(e)(6) provides for criteria for determining intentional Program violation and states the hearing authority shall base the determination of intentional Program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional Program violation as defined in [paragraph \(c\)](#) of this section.

**The hearing record is void of evidence regarding the store's characteristics, food stock, and store pricing; therefore, the evidence does not show that the Defendant's transactions could not end in 00, .25., .50 or .75.**

**The Department did not provide clear and convincing evidence that the Defendant committed trafficking of her SNAP benefits.**

9. 7 C.F.R. § 273.16(e)(8)(i) provides for imposition of disqualification penalties and states if the hearing authority rules that the individual has committed an intentional Program violation, the household member must be disqualified in accordance with the disqualification periods and procedures in [paragraph \(b\)](#) of this section. The same act of intentional Program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16(b)(1)(i) provides for disqualification penalties and states individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: for a period of twelve months for the first intentional Program violation, except as provided under [paragraphs \(b\)\(2\), \(b\)\(3\), \(b\)\(4\), and \(b\)\(5\)](#) of this section.

7 C.F.R. §273.2(f)(11)(i) provides for the use of disqualification data and states pursuant to § 273.16(i), information in the disqualified recipient database will be available for use by any State agency that executes a computer matching agreement with FNS. The State agency shall use the disqualified recipient database for the

following purposes: (A) Ascertain the appropriate penalty to impose based on past disqualifications in a case under consideration.

**The Department incorrectly determined a disqualification period for the Defendant because it did not establish an IPV.**

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. *“Claims Against Households.* General. A recipient claim is an amount owed because of benefits that are overpaid or benefits that are trafficked. Trafficking is defined in 7 C.F.R. 271.2. 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. As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan. The following are responsible for paying a claim: Each person who was an adult member of the household when the overpayment or trafficking occurred; A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.” 7 C.F.R. § 273.18(a)
12. *“Types of Claims.* There are three types of claims: (1) An Intentional Program Violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16. (2) An Inadvertent Household Error (IHE) claim is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. (3) An Agency Error (AE) claim is any claim for an overpayment caused by an action or failure to take action by the State agency.” 7 C.F.R. § 273.18(b)

**The Department incorrectly determined the SNAP overpayment claim due to a trafficking IPV. The Department is incorrect to seek the [REDACTED] recoupment from the Defendant due to a SNAP trafficking violation.**

### DISCUSSION

The Department must meet the burden of clear and convincing to establish an IPV. The fact that the FNS disqualified the store from the SNAP for trafficking does not automatically show proof that persons who shopped in the store trafficked. The Department must show evidence for the ADH to prove its case against the Defendant. The Department did not provide any evidence regarding the store’s characteristics, which is the basis of its claim against the Defendant for trafficking.

The Department did not meet its burden of clear and convincing in this case.

### **DECISION**

1. The Defendant has **not** been proven guilty of committing an Intentional Program Violation of the SNAP for trafficking of her benefits. The Department may not disqualify the Defendant from participating in the SNAP for a period of twelve (12) months.
2. The Department is not authorized to seek recovery of [REDACTED] in SNAP.

### **ORDER**

1. Remove the first offense IPV of the SNAP program from the Defendant's case.
2. Remove the SNAP overpayment of [REDACTED]
3. Compliance with the above order is due no later than close-of-business on [REDACTED]  
[REDACTED]

*Shawn P. Hardy*

Shawn P. Hardy  
Hearing Officer

**CC:** [OLCHRAH.QA.DSS@ct.gov](mailto:OLCHRAH.QA.DSS@ct.gov)

William Carrasquillo, Social Services Investigator, DSS, Bridgeport, CT, Resource Center

### **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.