

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

██████████, 2024
SIGNATURE CONFIRMATION

██████████
██████████
REQUEST# 229007

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek the disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for a period of twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by failing to report income from rental property.

On ██████████, 2023, 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 outlined the Defendant’s rights for these proceedings and scheduled the ADH for ██████████, 2024.

On ██████████, 2023, the Defendant signed for the certified mail.

On ██████████, 2024, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes and Title 7 of the Code of Federal Regulations Section 273.16 subsection (e), OLCRAH held the Administrative Disqualification Hearing. The Defendant was not present at the hearing and did not provide good cause for not appearing.

The following individuals participated in the hearing:

Dominic Laird, Investigator, Department's Representative
Melissa Prisavage, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an Intentional Program Violation ("IPV") of the SNAP and is therefore subject to a twelve (12) month disqualification penalty.

FINDINGS OF FACT

1. The Defendant is the Head of Household and received benefits under the SNAP program for a household of five, himself, his spouse, and their three children. The Defendant, [REDACTED] age [REDACTED], [DOB [REDACTED]], spouse, [REDACTED] age [REDACTED], [DOB [REDACTED]], child, [REDACTED] age [REDACTED] [DOB [REDACTED]], child, [REDACTED] age [REDACTED] [DOB [REDACTED]], and child [REDACTED] age [REDACTED] [DOB [REDACTED]]. (Hearing Record, Exhibit 12: Notice of Renewal of Eligibility dated [REDACTED], 2023)
2. On [REDACTED], 2023, the Department received an Online Renewal ("ONRE") for SNAP from the Defendant, for a household of five. The Defendant reported that he owns the property located at [REDACTED] in [REDACTED], CT, but did not report any income from this property. (Department's Testimony, Exhibit 3: ONRE)
3. On [REDACTED], 2023, the Department spoke to the Defendant, and when asked, he admitted that he has received income from the rental property since 2019. (Department's Testimony, Exhibit 4: Case Notes)
4. The Appellant failed to report rental income from the property on previous applications or renewals. (Department's Testimony, Exhibit 4)
5. On [REDACTED] 2023, the Department's investigator reviewed the [REDACTED] assessor's website and confirmed that the Defendant owns the property at [REDACTED] in [REDACTED], CT. The investigator confirmed that the property was purchased on [REDACTED], 2017, and is recorded as having 3 units. (Department's Testimony, Exhibit 4, Exhibit 5: [REDACTED] Property Record)
6. On [REDACTED] 2023, the Department's investigator conducted an address search in IMPACT for individuals with a reported address of [REDACTED] in [REDACTED], CT. The investigator located 2 different leases that were

provided to the Department showing the Defendant as the landlord of this property, one for the dates [REDACTED] 2018, through [REDACTED], 2019, with a monthly rent of \$900.00 and one for the dates [REDACTED], 2023, through [REDACTED], 2024, with a monthly rent of \$850.00. (Hearing record, Exhibit 6: Lease for [REDACTED] 2018 – [REDACTED], 2019, Exhibit 7: Lease for [REDACTED] 2023 – [REDACTED], 2024)

7. On [REDACTED] 2023, the Department sent the Defendant form w-1448, Notice of Prehearing Interview, scheduling an interview for [REDACTED] [REDACTED], 2023. (Department's Testimony, Exhibit 8: W-1448)
8. On [REDACTED] 2023, the Department sent the Defendant form w-1449, Waiver of Disqualification Hearing, outlining the disqualification process and providing the Defendant the option to waive his right to a hearing. (Department's Testimony, Exhibit 9: W-1449)
9. The Defendant has no prior intentional program violations of the SNAP program. (Department's Testimony, Exhibit 13: EDRS printout)
10. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV when the Defendant failed to report rental property income to the Department on his renewal for SNAP benefits. This would be the first disqualification penalty under the SNAP for the Defendant. (Department's Testimony, Exhibit 10: W-262CF, Exhibit 13)
11. 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)
12. The issuance of this decision is timely under Title 7 § 273.16(e)(2)(iv) of the Code of Federal Regulations ("C.F.R."), which requires that the agency issue a decision within 90 days of the initiation of the ADH process. On [REDACTED], 2023, the OLCRAH received the request for an ADH hearing. The OLCRAH initiated the ADH process on [REDACTED], 2023; therefore, this decision is due no later than [REDACTED], 2024.

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. Title 7 Section 273.16(a)(1) of the Code of Federal regulations (“C.F.R.”) provides 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.
3. 7 C.F.R. § 273.16 (e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation.

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

The Department properly initiated the ADH.

4. 7 C.F.R. § 273.16(c)(1)(2) provides as follows: “Definition of intentional Program violation. Intentional Program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed, or withheld facts.” (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.
- The Defendant withheld the fact that he has been receiving rental property income since 2019 when he submitted his renewal for benefits.**
5. 7 C.F.R. § 273.16(e)(6) provides that the hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates

that the household member(s) committed, and intended to commit, an Intentional Program Violation.

The Department provided clear and convincing evidence that the Defendant committed and intended to commit an IPV because he intentionally withheld the information regarding his rental property income from the Department.

6. 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. 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 ADH notice that included a summary of the Department's charges was delivered to and signed for by the Defendant via certified mail by the United States Postal Service on [REDACTED], 2023.

The Defendant failed to appear for the scheduled ADH on [REDACTED], 2024, and did not provide good cause for failing to appear.

8. 7 C.F.R. § 273.16(a)(3) provides 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 him on [REDACTED] 2023.

9. 7 C.F.R. § 273.16 (b) provides for disqualification penalties and indicates (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.
10. 7 C.F.R. § 273.16 provides for imposition of disqualification penalties and states:
- (i) 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.
 - (ii) 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.

- (iii) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

The Department correctly determined that the disqualification period for the Defendant is twelve (12) months.

DECISION

The Defendant is found **GUILTY** of committing a first offense IPV in the SNAP program by misrepresenting his household income. He is hereby disqualified from the SNAP program for a period of twelve months.



**Melissa Prisavage
Fair Hearing Officer**

CC: OLCRAH.QA.DSS@CT.gov
Dominic Laird, DSS, Fraud Investigator

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.