

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

Case ID # ██████████
Client ID # ██████████
Request # 232028

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 disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for a period of 12 months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by misrepresenting her household composition. The Department also seeks to recover overpaid SNAP benefits of \$664.00 from the Defendant.

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

On ██████████ 2024, OLCRAH received an unsigned return receipt from the United States Postal Service (“USPS”).

On ██████████ 2024, OLCRAH mailed the Defendant the entire packet again, including the hearing summary and proceedings notification, via first class mail. USPS did not return the packet, and the Defendant confirmed that she received the packet.

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 (“C.F.R”), section 273.16, subsection (e).

The following individuals were present at the hearing:

[REDACTED], Defendant
Salvatore Tordonato, Department’s Investigator
Kristin Haggan, Fair Hearing Officer

STATEMENTS OF THE ISSUES

The first issue is whether the Defendant committed an IPV of the SNAP program.

The second issue is whether the Department can disqualify the Defendant from the SNAP program for a period of twelve (12) months.

The third issue is whether the Department can recover the resulting SNAP overpayment of \$664.00 for the period of [REDACTED] 2023, through [REDACTED] 2023.

FINDINGS OF FACT

1. The Defendant is [REDACTED] years old (DOB: [REDACTED]). (*Appellant’s Testimony, Exhibit 2: ONAP*)
2. The Defendant is currently not receiving SNAP benefits. (*Department Investigator’s Testimony, Appellant’s Testimony*)
3. The Defendant has no previous IPV’s. (*Department Investigator’s Testimony, Exhibit 16: EDRS penalty printout*)
4. On [REDACTED] 2023, the Department received an online application (“ONAP”) from [REDACTED]. [REDACTED] was applying for SNAP for himself and his [REDACTED], daughter, [REDACTED], who is a mutual child of the Defendant’s. [REDACTED] reported on his ONAP that he and the child reside at [REDACTED]. [REDACTED] did not report any other household members on the ONAP. (*Exhibit 2*)
5. On [REDACTED], 2023, the Defendant submitted an online application (“ONAP”) for SNAP benefits for herself and her [REDACTED] son, [REDACTED]. The Defendant reported no other household members on the ONAP. She reported that she and her son live at [REDACTED]. (*Exhibit 2*)
6. On [REDACTED], 2023, the Department reviewed the Defendant’s ONAP. During the review the Department noted that the Defendant had previously applied for SNAP on [REDACTED], 2023, and the ONAP listed herself, [REDACTED], and two children, [REDACTED] and [REDACTED].

■■■■■ all living at ■■■■■. The ■■■■/23 application was denied for failure to provide verifications. (*Department Investigator's Testimony, Hearing Summary*)

7. On ■■■■■, 2023, the Department completed a telephone interview with ■■■■■. The Department questioned ■■■■■ about his relationship with the Defendant and their mutual child. ■■■■■ requested that his ONAP be withdrawn. (*Hearing Summary, Department Investigator's Testimony, Exhibit 6: Case Notes*)
8. On ■■■■■, 2023, the Department's Investigator was assigned a referral to investigate the Defendant's household composition to determine if ■■■■■ resides in her home. (*Hearing Summary, Department Investigator's Testimony, Exhibit 1: Impact Referral*)
9. On ■■■■■ 2023, the Defendant contacted the Department and completed a phone interview. The Defendant reported during the interview that she resides with her two children, ■■■■■ and ■■■■■. The Department granted the Defendant a SNAP benefit of \$277.00 for the month of ■■■■■ 2023, and a monthly benefit of \$664.00 for ■■■■■ 2023 and ongoing. (*Hearing Summary, Department Investigator's Testimony, Exhibit 6, Exhibit 14: Notice of Action ■■■■/23, Exhibit 13: Benefit Issuance Search*)
10. On ■■■■■, 2023, the Department's Investigator attempted a home visit to the Defendant's address of ■■■■■. The Investigator was unable to enter the home. The Investigator later called the Defendant and she stated that she had a protection order against ■■■■■, but later stated that technically she did not have a protection order against him. The Defendant stated that she could not provide the Investigator with a current lease as she was paying on a month-to-month basis. The Defendant stated that ■■■■■ does not reside in her home and that he is living with his sister in ■■■■■. (*Investigator's Testimony, Hearing Summary*)
11. On ■■■■■ 2023, the Department's Investigator attempted a second home visit to ■■■■■. The Defendant was not home, and when the Investigator contacted her by phone, she informed him that she was visiting family in ■■■■■. (*Department Investigator's Testimony*)
12. On ■■■■■ 2023, the Department's Investigator concluded that based on his inability to complete a home visit with the Defendant, and numerous collaterals that placed the Defendant and ■■■■■ at the same residence, that they remained intact. The Investigator recommended to the Department that Mr. Leon be added to the Defendant's SNAP household. (*Department Investigator's Testimony*)
13. On ■■■■■ 2023, the Department received a W1408 Landlord Verification Form from ■■■■■. The form was completed and signed by a ■■■■■ and stated that only ■■■■■ and his child, ■■■■■, live in the home located at ■■■■■.

████████████████████ ██████ also provided a handwritten and signed letter from ██████████ stating that ██████████ and his child, ██████████ rent a room from her at ██████████, and pay rent of \$1200.00 per month. The Department reviewed the documents and the Investigator's referral and added ██████████ to the Defendant's SNAP household. The SNAP benefit closed due to ██████████ income placing the household over the income limit for a household of four people. (*Department Investigator's Testimony, Exhibit 14: Notice of Action ██████/23*)

14. ██████████ (the person who completed the W1408 Landlord Verification Form and signed a statement regarding Mr. Leon's residence, household composition, and rent) is not the landlord of ██████████. The Defendant does not know who ██████████ is. The property manager's name is ██████████. (*Defendant's Testimony, Exhibit 11: Apartment Lease and Addendum*)
15. The Investigator did not receive the signed ADH Waiver Form back from the Defendant. (*Department Investigator's Testimony, Defendant's Testimony*)
16. 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 ██████████, 2024, OLCRAH mailed the Defendant notification of the initiation of the ADH process. This decision is due no later than ██████████ 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.

Section 17b-88(2) of the Connecticut General Statutes 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 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 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.

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.

The Department has the authority under state statute and federal regulation to initiate and hold Administrative Disqualification Hearings.

2. 7 C.F.R. § 273.16 (a) provides for administrative responsibility. (1)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 of 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 did not refer the Defendant's case for civil or criminal prosecution.

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.

On [REDACTED], 2024, OLCRAH mailed the Defendant notification of the initiation of the ADH process via certified mail. The Defendant did not sign for this mail. On [REDACTED], 2024, OLCRAH received the unsigned return receipt from the USPS. On [REDACTED] 2024, OLCRAH mailed the Defendant the notification again, this time via first class mail. The packet was not returned, and the Defendant confirmed at the ADH that she received the packet. The packets that were mailed to the Defendant contained the following information: the date, time, and place of the hearing; a summary of the Department's charges against the Defendant; a summary of the evidence, and how and where the Defendant can examine the evidence; 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.

The Defendant participated in the ADH that was held at the Hartford Regional Office.

4. 7 C.F.R. § 273.16 (f) provides for waived hearings. Each State agency shall have the option of establishing procedures to allow accused individuals to waive their rights to an

administrative disqualification hearing. For State agencies which choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures shall conform with the requirements outlined in this section.

The Department correctly notified the Defendant of her right to waive the ADH.

The Defendant did not return the signed waiver to the Department.

5. 7 C.F.R. § 273.1(a) provides for household concept and states that a household is composed of one of the following individuals or group of individuals, unless otherwise specified in paragraph (b) of this section.

(1) An individual living alone;

(2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or

(3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. § 273.1(b)(1) provides for required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or stepparent(s);

The Department incorrectly determined that the Defendant's household consists of herself, ██████████, and two children.

6. 7 C.F.R. § 273.16 (c) provides for the definition of Intentional Program Violation as follows: For purposes of determining through administrative disqualification hearings whether 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.

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 incorrectly determined that ██████████ was residing in the Defendant's home at the time of her application.

Based on the above conclusions of law, the Department did not present clear and convincing evidence to support its position that the Defendant committed an IPV.

7. 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.

7 C.F.R. § 273.16(e)(8)(i) provides for imposition of disqualification penalties. 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. 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 the 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.

The Department is seeking to disqualify the Defendant from participating in the SNAP program for a period of twelve (12) months.

The Department incorrectly established that the Defendant committed an IPV of the SNAP program and is subject to a penalty period.

8. 7 C.F.R. § 273.16(b)(12) provides for the claims and the repayment process and specifies that 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.

The Department incorrectly established that the Defendant committed an IPV and is subject to recoupment of the SNAP benefits that she received in the month of ██████████ 2023.

DISCUSSION

The Department attempted two home visits and was unable to enter the Defendant's home to verify if ██████████ was residing there.

The Defendant stated at the ADH that ██████████ left her home in May of 2022 and then moved back in with her in October of 2022 when their mutual child was due to be born. She stated that he resided with her for a short time, and then moved to his sister's house in ██████████, where he has resided ever since. She does not know his current address.

The Department provided a copy of the Defendant's lease agreement and addendum that were signed by both the Defendant and ██████████ on ██████████ 2022, when he was residing in her home. The lease agreement and addendum documents provided are for a time when the Defendant admits that ██████████ was living in her home and are not considered evidence that he currently resides with her.

The Department provided court documents ranging from ██████████ 2023 through ██████████ 2023 regarding unpaid rent money that the Defendant is obligated to pay. The Defendant's signature is on the court documents, but ██████████ signature is not. The Defendant explained that ██████████ did not attend court for this matter because he does not live with her. The Defendant stated that she is in the process of paying back the rent that she owes to the landlord and a new lease agreement will be drawn up once all rent is paid. The court documents are not considered evidence that ██████████ is currently residing in the Defendant's home.

The Department determined that ██████████ was living with the Defendant based on information that ██████████ provided on his own separate application. The Defendant states that the information ██████████ provided on his application is false. It is possible that ██████████ was deliberately using false information to apply for his own SNAP benefits.

The Department did not present clear and convincing evidence to support its position that the Defendant committed an IPV.

DECISION

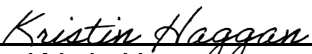
The Department's request to establish that the Defendant committed an IPV of the SNAP program is **DENIED**.

The Department's request to disqualify the Defendant from the SNAP program for a period of twelve (12) months is **DENIED**.

The Department's request to recover the overpayment claim of \$664.00 for the period of [REDACTED] 2023, through [REDACTED] 2023, is **DENIED**.

ORDER

- 1) The Department is ordered to rescind its proposal to disqualify the Defendant from participating in the SNAP program for a period of twelve (12) months.
- 2) The Department is ordered to rescind its proposal to recover the SNAP overpayment of benefits for the period [REDACTED] 2023, through [REDACTED], 2023, of \$664.00.
- 3) The Department is ordered to reinstate the Defendant's SNAP benefit effective [REDACTED] 2024, and remove [REDACTED] from the SNAP household.
- 4) Compliance is due 14 days from the date of this decision.



Kristin Haggan
Fair Hearing Officer

CC: OLCRAH.QA.DSS@CT.gov
Salvatore Tordonato, Investigator

RIGHT TO APPEAL

The defendant has the right to appeal this decision to the 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 to 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 following §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.