

As of [REDACTED] [REDACTED] 2024, the United States Postal Service (“USPS”) failed to update any tracking information after [REDACTED] [REDACTED] 2024. Neither the certified mail packet nor the regular first-class mail containing the hearing documents were returned by the USPS.

At the administrative hearing, the Defendant confirmed receipt of the hearing documents.

On [REDACTED] [REDACTED] 2024, OLCRAH conducted the ADH in accordance with section 17b-88 of the Connecticut General Statutes and subsection (e), section 273.16 of Title 7 of the Code of Federal Regulations.

PRESENT AT THE HEARING

[REDACTED] [REDACTED] Defendant
Megan Monroe, Investigator and Department Representative
Nickola Boothe, Investigator, Observer only
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation (“IPV”) of the SNAP due to trafficking violations and is subject to disqualification from participation in the SNAP for 12 months.

A secondary issue to be decided is whether the Department’s proposal to recover a SNAP overpayment claim of \$1,079.01 due to trafficking for the period [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2023 is correct.

FINDINGS OF FACT

1. The Defendant is a recipient of SNAP benefits. The Defendant is a household of two: the Defendant and his [REDACTED]-year-old son. (Hearing Record)
2. The Defendant lives with his son at [REDACTED], [REDACTED] (“home address”). The Defendant has Section 8. (Stipulated)
3. The Defendant receives cash assistance for himself under the Temporary Family Assistance (“TFA”) program. The Defendant’s son is disabled and receives Supplemental Security Income (“SSI”). (Defendant Testimony)

4. The Defendant accesses his benefits under the SNAP with an Electronic Benefit Transfer (“EBT”) card number [REDACTED] issued by the Department. (Stipulated)
5. On [REDACTED] [REDACTED] 2023, the Food and Nutrition Service (“FNS”) completed a site visit at [REDACTED] (the “Store”) located at [REDACTED]. The site visit revealed the Store is open from 6:00 am to 12:00 am seven days per week with one checkout counter, two cash registers and six Point of Sale (POS) devices, four of which accept SNAP EBT inside the Store. The Store also accepts Special Supplemental Nutrition Program for Women, Infant, and Children known as WIC. There are two optical scanners at the Store. The Store has a food storage area out of public view and a walk-in cooler. The Store has a coffee bar. The Store sells infant formula, dairy products, fruits and vegetables, breads, cereal, rice, pasta, meat, fish, and canned meats, tuna, and eggs. The Store sells tobacco products, health and beauty aids, automobile products, tobacco products, lottery tickets, and gasoline. The three highest priced eligible food items under the SNAP in the store are various beef jerky links \$9.29, one pound bacon \$9.99, and 20-ounce Red Bull \$5.49. The Store sells hot foods and provides a microwave for customers. The Store does not provide shopping carts or baskets for their customers nor round up or down transaction totals. (Exhibit 13: General Store Information and Photos)
6. On [REDACTED] [REDACTED] 2023, FNS inventoried products sold at the Store. The Store lists twenty or more eggs, cold cereal, pasta, processed foods, beef/veal, pork, sardines/tuna, milks, cheese, infant formula, butter/margarine, fruits such as apples, bananas, oranges, pears/peaches, pineapple, and fresh/frozen vegetables such as peas/lentils, beans, carrots, and nuts/seeds. (Exhibit 13: General Store Information and Photos)
7. Photos of the products sold in the store include but not limited to such brands as Chef Boyardee, Ramon, Duncan Hines, Maxwell House, Campbells, Del Monte, Gerber, Goya, Pearl Milling, Libby’s, Spam, Kraft, Ronzoni, Progresso, Doritos, Lays, Tostitos, Similac, Coffee Mate, Hunts, and Jiff. (Exhibit 13: General Store Information and Photos)
8. FNS reviewed EBT and Pandemic EBT (“P-EBT”) transactions completed at the Store between [REDACTED] 2022 and [REDACTED] 2023 and determined the Store committed trafficking violations under the SNAP program citing “EBT transactions that establish clear and repetitive patterns of unusual, irregular, and inexplicable activity for your type of firm.” FNS further writes, In a series of EBT Transactions, there were a large number of transactions ending in the same cents value, a large number of transactions in repeated dollar values, multiple transactions were made

from the accounts of individual households within a set time period, and your store conducted EBT transactions that are large based on the observed store characteristics and record food stock. FNS identified the Defendant's EBT card used in the series of transactions identified as trafficking. (Exhibit 1: USDA/FNS Store Notice, Exhibit 2: USDA/FNS Store Notice, and Investigator Testimony)

9. In a series of EBT transactions, FNS identified fifty-five (55) transactions ending in the same cents value, specifically ending in \$00.08 between [REDACTED] 2022 and [REDACTED] 2023 during their trafficking investigation. Three of those transactions belonged to the Defendant. (Exhibit 1: USDA/FNS Store Notice)

[REDACTED]	/2022 09:12:19 AM	\$58.08
[REDACTED]	/2022 08:06:01 AM	\$58.08
[REDACTED]	/2022 01:51:19 PM	\$61.08

10. In a series of EBT transactions, FNS identified thirty-three sets of transactions were made from the accounts of individual households within a set time period, within 24 hours of each transaction, between [REDACTED] 2022 and [REDACTED] 2023 during their trafficking investigation. Three (3) sets, nine (9) transactions belonged to the Defendant. (Exhibit 1: USDA/FNS Store Notice)

[REDACTED]	/2022 01:01:29 PM	\$50.28
[REDACTED]	/2022 01:09:26 PM	\$61.60
[REDACTED]	/2022 09:12:19 AM	\$58.08
[REDACTED]	/2022 10:20:52 AM	\$58.45
[REDACTED]	/2022 08:06:01 AM	\$58.08
[REDACTED]	/2022 08:07:06 AM	\$15.25
[REDACTED]	/2022 11:30:49 AM	\$61.10

11. In a series of EBT transactions, FNS identified 165 large transactions based on store characteristic and recorded food stock between [REDACTED] 2022 and [REDACTED] 2023 during their trafficking investigation. Twelve of those transactions belonged to the Defendant. (Exhibit 1: USDA/FNS Store Notice)

[REDACTED]	/2022 12:58:19 PM	\$99.89
[REDACTED]	/2022 01:01:29 PM	\$50.28
[REDACTED]	/2022 01:09:26 PM	\$61.60
[REDACTED]	/2022 09:12:19 AM	\$58.08
[REDACTED]	/2022 10:20:52 AM	\$58.45
[REDACTED]	/2022 08:06:01 AM	\$58.08
[REDACTED]	/2022 11:30:49 AM	\$61.10
[REDACTED]	/2022 01:51:19 PM	\$61.08
[REDACTED]	/2022 02:02:40 PM	\$65.08
[REDACTED]	/2022 12:02:03 PM	\$66.08
[REDACTED]	/2023 02:14:13 PM	\$99.89

■■/■■/2023 02:50:48 PM	\$138.10
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12. Effective ■■■■■ ■■ 2023, FNS permanently disqualified the Store from the SNAP because the Store violated federal SNAP regulations by participating in trafficking activities with SNAP recipients. (Exhibit 2: USDA/FNS Store Notice)
13. Between the period ■■■■■ ■■ 2022 and ■■■■■ ■■ 2023, the Department deposited the following SNAP benefits, including P-SNAP benefits into the Appellant's EBT account which totals \$908.00 for ■■■■■ 2022, \$517.00 for ■■■■■ 2022 and ■■■■■ 2022, \$516.00 for ■■■■■ 2023 and ■■■■■ 2023. (Exhibit 14: Impact Benefit Issuance Search)

Deposit Date	SNAP Amount Deposited
■■/■■/2022	\$422.00
■■/■■/2022	\$95.00
■■/■■/2022	\$391.00
■■/■■/2022	\$422.00
■■/■■/2022	\$95.00
■■/■■/2022	\$422.00
■■/■■/2022	\$95.00
■■/■■/2023	\$389.00
■■/■■/2023	\$127.00
■■/■■/2023	\$389.00
■■/■■/2023	\$127.00
Total	\$2,974.00

14. In ■■■■■ 2022, the Defendant's used his EBT card at the Store to access SNAP benefits from the Defendant's account eight times. (Exhibit 4: Conduent Transactions, Exhibit 12: Transaction Detailed Report, and Department Representative Testimony)

Transaction Date/Time	Transaction Amount
■■/■■/2022 12:58:19 PM	\$99.89
■■/■■/2022 04:31:04 PM	\$19.50
■■/■■/2022 05:53:27 PM	\$9.98
■■/■■/2022 08:08:10 PM	\$10.99
■■/■■/2022 02:39:11 PM	\$3.00
■■/■■/2022 10:47:56 AM	\$2.69
■■/■■/2022 01:01:29 PM	\$50.28
■■/■■/2022 01:09:26 PM	\$61.60
Total spent in ■■■■■	\$257.93

15. In ■■■■■ 2022, the Defendant's used his EBT card at the Store to access SNAP benefits from the Defendant's account ten times. (Exhibit 4: Conduent Transactions, Exhibit 12: Transaction Detailed Report, and Department Representative Testimony)

Transaction Date/Time	Transaction Amount
█/2022 09:12:19 AM	\$58.08
█/2022 10:20:52 AM	\$58.45
█/2022 08:06:01 AM	\$58.08
█/2022 08:07:06 AM	\$15.25
█/2022 11:30:49 AM	\$61.10
█/2022 01:51:19 PM	\$61.08
█/2022 08:49:56 AM	\$1.00
█/2022 11:57:13 AM	\$12.49
█/2022 06:20:15 PM	\$1.89
█/2022 10:10:55 AM	\$5.99
Total Spent in █	\$333.41

16. In █ 2022, the Defendant's used his EBT card at the Store to access SNAP benefits from the Defendant's account ten times. (Exhibit 4: Conduent Transactions, Exhibit 12: Transaction Detailed Report, and Department Representative Testimony)

Transaction Date/Time	Transaction Amount
█/2022 02:02:40 PM	\$65.08
█/2022 12:02:03 PM	\$66.08
█/2022 08:17:00 PM	\$5.00
█/2022 11:02:27 AM	\$3.00
█/2022 09:17:07 PM	\$7.88
█/2022 10:22:17 AM	\$7.37
█/2022 10:28:37 AM	\$6.63
█/2022 06:32:25 PM	(\$6.68) insufficient funds
█/2022 06:33:06 PM	\$6.20
█/2022 11:00:40 AM	\$5.38
Total Spent in █	\$172.62

17. In █ 2023, the Defendant's used his EBT card at the Store to access SNAP benefits from the Defendant's account eleven times. (Exhibit 4: Conduent Transactions, Exhibit 12: Transaction Detailed Report, and Department Representative Testimony)

Transaction Date/Time	Transaction Amount
█/2023 01:11:19 PM	\$6.47
█/2023 02:14:13 PM	\$99.89
█/2023 12:45:03 PM	\$6.79
█/2023 03:42:32 PM	(\$5.59) invalid pin
█/2023 03:42:52 PM	\$5.59
█/2023 04:25:26 PM	\$8.58
█/2023 06:44:53 PM	\$5.38
█/2023 08:41:21 AM	\$4.00
█/2023 07:05:12 PM	\$2.31
█/2023 09:50:41 AM	\$4.50
█/2023 04:58:52 PM	\$5.00
Total Spent in █	\$148.51

18. In [REDACTED] 2023, the Defendant used his EBT card at the Store to access SNAP benefits from the Defendant's account seven times. (Exhibit 4: Conduent Transactions, Exhibit 12: Transaction Detailed Report, and Department Representative Testimony)

Transaction Date/Time	Transaction Amount
[REDACTED]/2023 10:33:08 AM	\$4.00
[REDACTED]/2023 02:50:48 PM	\$138.10
[REDACTED]/2023 12:03:29 PM	\$7.00
[REDACTED]/2023 05:35:27 PM	\$5.00
[REDACTED]/2023 09:01:47 AM	\$4.00
[REDACTED]/2023 06:36:58 PM	(\$10.94) insufficient funds
[REDACTED]/2023 06:37:21 PM	\$8.44
Total Spent [REDACTED]	\$166.54

19. The total spent at the Store between [REDACTED] 2022 through [REDACTED] 2023 equals \$1,079.01. (Hearing Record)

[REDACTED] 2022	\$257.93
[REDACTED] 2022	\$333.41
[REDACTED] 2022	\$172.62
[REDACTED] 2023	\$148.51
[REDACTED] 2023	\$166.54
Total Spent	\$1,079.01

20. The Department alleges the Defendant committed trafficking violations under the SNAP by selling his EBT card to the Store. The Department determined all of the Defendant's transactions made at the Store between [REDACTED] 2022 and [REDACTED] 2023 which included multiple transactions ending in 00.08 and 00.00, multiple transactions made within 24-hours, and multiple high dollar transactions were identified as trafficking as supported by the FNS Investigation of the Store. The Department labeled all transactions, large or small, at the Store as trafficking because the Department could not determine which specific transactions were trafficking. Refer to Finding of Facts ("FOF") #s 9 – 11 and 14 – 19 for transactions. (Investigator's Testimony and Exhibit 6: Notice of Prehearing Interview and Waiver of Disqualification)
21. The Department determined the Defendant overpaid \$1,079.01 for the period [REDACTED] 2022 through [REDACTED] 2023 due to trafficking violations at the Store under the SNAP. Refer to FOF #19. (Hearing Record)
22. On [REDACTED] 2024, the Investigator interviewed the Defendant in his home to discuss the trafficking charges and overpayment. The Defendant explained to the Investigator he sometimes bought items on credit and his SNAP EBT card would be charged at a later date. (Department Representative Testimony)

23. On [REDACTED] [REDACTED] 2024, the Department delivered a W-1448 Notice of Prehearing Interview. The notice informed the Defendant he received \$1,079.01 more than he should have in SNAP benefits due to trafficking violations at the Store and requested the Defendant contact the Department to discuss the allegations of trafficking by [REDACTED] [REDACTED] 2024 and the overpayment of such benefits due to trafficking violations. The notice informed the Defendant of his rights to an administrative disqualification hearing and choosing to give up such rights, agreeing to repay the overpayment, and imposing the appropriate disqualification penalty. (Exhibit 6: Notice of Prehearing Review and Waiver of Disqualification)
24. On [REDACTED] [REDACTED] 2024, the Department delivered a W-1449 Waiver of Disqualification Hearing SNAP Program notice. The notice informed the Defendant that he broke the rules of the SNAP on purpose and committed an Intentional Program Violation. The Department proposes to impose a SNAP penalty and disqualify the Defendant from SNAP for one year. The waiver includes three options for the Defendant to review: A. I knowingly and voluntarily admit to the facts as presented. B. I do not admit to the facts as presented but knowingly and voluntarily sign this Waiver and understand that a disqualification penalty will result. C. I have read this notice and wish to exercise my right to have an administrative hearing. The notice lists the due date for signature as [REDACTED] [REDACTED] 2024. (Exhibit 1: Notice of Violation, Exhibit 2: Notice of Prehearing Review and Waiver of Disqualification)
25. The Defendant shops for groceries at the local Walmart, IGA, and the Store. The Defendant will not drive far to shop for groceries because his car is not reliable. The Defendant pays for groceries with his SNAP benefits on his EBT card. (Defendant Testimony)
26. The Defendant used his EBT card to access his SNAP benefits at the Store. The Store is located around the corner from his home address. The Defendant finds the Store prices lower than big stores like Stop and Shop. The Store's inventory includes items the Defendant buys regularly for himself and his son. The Defendant has bought such items as spaghetti, water, frozen juice, Doritos, cookies, soda, ice cream, cooking oil, sandwiches, frozen burgers, frozen lasagna, frozen pizza, Pop Tarts, cereal, Spam, canned vegetables and fruit, condiments, margarine, chips, candy, Monster drinks, Brisk iced tea, milk, chocolate syrup, Chef Boyardee, and salt/spices. (Defendant's Testimony, Exhibit A: Store Photos, and Exhibit B: Store Videos)
27. FNS records indicate the Defendant has never received a disqualification penalty under the SNAP. (Exhibit 9: Electronic Disqualified Recipient System)

28. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year and recover \$1,079.01 in overpaid SNAP benefits due to an IPV of trafficking. (Hearing Record)
29. 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 a decision be issued within 90 days of the notice of the initiation of the ADH process. On [REDACTED] [REDACTED] 2024, the OLCRAH mailed the Defendant notification of the initiation of the ADH process. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2024.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes ("Conn. Gen. Stat.") provides as follows:

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.

2. Title 7 Section 273.16(e) of the Code of Federal Regulations ("C.F.R.") provides as follows:

The State agency shall conduct administrative disqualification hearings for individuals accused of an Intentional Program Violation ("IPV") in accordance with the requirements outlined in this section.

State statute provides as follows:

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.

Conn. Gen. Stat. § 17b-88

Federal regulation provides for the Consolidation of administrative disqualification hearing with fair hearing.

The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional Program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, the State agency shall, upon household request, allow the household to waive the 30-day advance notice period required by paragraph (e)(3)(i) of this section when the disqualification hearing and fair hearing are combined.

7 C.F.R. § 273.16(e)(1)

The Department has the authority to combine an administrative disqualification hearing with a fair hearing into a single hearing.

3. Federal regulation provides as follows:

The State agency shall be responsible for investigating any case of alleged intentional Program violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlines 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.

7 C.F.R. § 273.16(a)(1)

Federal regulation provides as follows:

The State agency shall base administrative disqualifications for intentional Program Violations (“IPV”) 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 individual either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

7 C.F.R. § 273.16(a)(3)

Federal regulation provides as follows:

Intentional Program violations (“IPV”) shall consist of having:

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.

7 C.F.R. § 273.16(c)

Federal regulation defines trafficking as:

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 or 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 Benefits Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by annual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

7 C.F.R. § 271.2

“The hearing authority shall base the determination of intentional program violation on clear and convincing evidence that demonstrates that the household member(s) committed, and intended to commit, intentional Program violation as defined in paragraph (c) of this section.” 7 C.F.R. § 273.16(e)(6)

The Department incorrectly determined the Defendant committed trafficking violations under the SNAP during the period [REDACTED] 2022 through [REDACTED] 2023. Federal regulation provides that the hearing authority must base the determination of an IPV on clear and convincing evidence that demonstrates that the household member committed and intended to commit an IPV.

The Defendant shops at the Store regularly as demonstrated by his EBT transactions between [REDACTED] 2022 and [REDACTED] 2023 making purchases as low as \$1.89 and as high as \$138.10 in a single purchase. Although the Defendant owns a car and can drive to Walmart where he shops in addition to the Store, his car is unreliable. He shops at the Store because it is walking distance from his home and their prices are comparable to big box stores like Stop and Shop. Evidence provided indicates the Defendant does shop at other stores as during the 5-month period examined by the Department, the Defendant spent 36% of his SNAP benefits at the store, leaving 64% spent at other retailers [$\$1,079.01$ Total Spent at Store / $\$2,974.00$ Total SNAP Issued = .3628143 or 36%] Video and photos provided by the Defendant of the Store's more current inventory and FNS' [REDACTED] 2023 Store inventory support the Defendant's testimony that he sometimes made large purchases at the Store. SNAP EBT payments are widely accepted at numerous retailers such as gas stations convenience stores, grocery stores, superstores such as Walmart, or wholesale stores such as Costco as well as online retailers allowing SNAP recipients more access to more stores. Although there may be cheaper options to purchase groceries, SNAP regulations do not dictate which store(s) a SNAP EBT purchase can be made at, other than a participating retailer.

The hearing record lacks clear and convincing evidence that demonstrates the Defendant committed and intended to commit trafficking violations based on his completed transactions at the Store between [REDACTED] 2022 and [REDACTED] 2023.

4. Federal regulation provides as follows:

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 of time must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16(e)(8)(i)

Federal regulation provides as follows:

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. § 273.16(b)(1)(i)

The Department incorrectly determined the Defendant subject to a SNAP disqualification penalty for a period of twelve months because the Department failed to establish that the Defendant committed an IPV due to trafficking violations. Refer to Conclusion of Law (“COL”) #3.

5. “There are three types of claims: 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.” 7 C.F.R. § 273.18(b)(1) Refer to COL #3.

“A recipient claim is an amount owed because of benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.” 7 CFR § 273.18(a)(1)(ii) Refer to COL #3.

“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.” 7 C.F.R. § 273.18(a)(2)

“Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by: the documentation that forms the basis for the trafficking determination.” 7 C.F.R. § 273.18(c)(2)(iii)

The Department incorrectly determined the Defendant incurred a SNAP overpayment claim due to trafficking violations totaling \$1,079.01 for the period [REDACTED] 2022 through [REDACTED] 2023.

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

The Department is incorrect to seek recoupment from the Defendant of \$1,079.01 due to trafficking violations.

DECISION

The Defendant is found not guilty of trafficking SNAP benefits and committing an Intentional Program Violation under the SNAP and therefore not subject to a 12-month IPV disqualification penalty.

The Department's request to recover the SNAP overpayment claim totaling \$1,079.01 due to trafficking between [REDACTED] ■ 2022 and [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 one year due to trafficking violations.
2. The department is ordered to rescind its proposal to recover the SNAP overpayment of benefits for the period [REDACTED] ■ 2022 through [REDACTED] ■ 2023 of \$1,079.01 due to trafficking violations.
3. Compliance is due 14-days from the date of this decision.

Lisa A. Nyren
Lisa Nyren
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Megan Monroe, RO #42

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.