

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

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

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) to seek the disqualification of ██████████ (the “Defendant”) from participating in the Supplemental Nutrition Assistance Program (“SNAP”) 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 seeks to recover the overpaid SNAP benefits of \$237.04. This is the Defendant’s first IPV offense in the SNAP program.

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 and scheduled an in-person hearing for ██████████, 2024, at ██████████. The notification outlined a Defendant’s rights in these proceedings.

On ██████████, 2024, the USPS delivered the certified letter per USPS tracking. The USPS did not indicate the recipient.

On ██████████, 2024, the OLCRAH remailed the hearing notification along with the summary and evidence via regular USPS First Class mail

On [REDACTED], 2024, in accordance with Sections § 17b-88 of the Connecticut General Statutes and Title 7 § 273.16 of the Code of Federal Regulations (“C.F.R.”) the OLCRAH held an Administrative Disqualification Hearing. The following individuals were present at the hearing:

[REDACTED], Defendant

[REDACTED], Defendant’s witness

[REDACTED], Interpreter # [REDACTED], Language Link Corporation

Megan Monroe, Social Services Lead Investigator, Department’s Representative

Joseph Davey, Administrative Hearing Officer

The hearing record remained open until [REDACTED], 2024, for the submission of additional information from the Defendant and the Department. Information was received from both parties and the record closed on [REDACTED], 2024.

STATEMENT OF THE ISSUE

The issues to be decided are whether the Defendant committed an IPV of the SNAP and whether the Department’s proposal to disqualify the Defendant from the SNAP for twelve months (12) and recoup a SNAP overpayment of \$237.04 is correct.

FINDINGS OF FACT

1. The Defendant is [REDACTED] ([REDACTED]) years old (DOB [REDACTED]), a recipient of the SNAP, and was a SNAP household of two (2), herself and her son, [REDACTED] (DOB [REDACTED]) during the time of the alleged IPV. (Exhibit 15: NOA (English) dated [REDACTED], Defendant’s testimony, Department’s testimony)
2. The Defendant has no prior IPV’s. (Exhibit 11: EDRS Disqualification Results, Department’s testimony)
3. On [REDACTED], 2024, the Department received a referral from the United States Department of Agriculture Food and Nutrition Services (“FNS”) that [REDACTED], located at [REDACTED], in [REDACTED], CT, had “*Electronic Benefit Transfer (“EBT”) transactions that establish clear and repetitive patterns of unusual, irregular, and inexplicable activity*” and “*Based on this information we (FNS) are charging ([REDACTED]) with trafficking...These transactions occurred during the months of [REDACTED] 2022-[REDACTED] 2023.*” (Exhibit 1: FNS Investigation [REDACTED] dated [REDACTED], Exhibit 18: FNS store review [REDACTED] dated [REDACTED], Department’s testimony, Hearing Record)

4. The FNS investigation flagged transactions at the [REDACTED] between [REDACTED] 2022 and [REDACTED] 2023 for the following four reasons: 1) *“There were a large number of transactions ending in the same cents value.”* 2) *“There were a large number of transactions in repeated dollar values.”* 3) *“Multiple transactions were made from the accounts of individual households within a set time period.”* 4) Large transactions *“based on observed store characteristics and recorded food stock.”* (Exhibit 1, Exhibit 2: Conduent transactions for Defendant dated [REDACTED]-[REDACTED])
5. The FNS investigation report detailed that the [REDACTED] sells a variety of items including but not limited to, soda, bread, cereals, meat, eggs, beans, rice, fruits, vegetables, and dairy. (Exhibit 18)
6. The Appellant often purchased bread, milk, soda, rice, and beans among other items, when she shopped at the [REDACTED]. (Appellant’s Exhibit A: Letter from [REDACTED] received on [REDACTED], Appellant’s testimony)
7. The FNS investigation report identified the following three most expensive SNAP eligible food items offered for sale at the [REDACTED] as: 1) Bacon: \$9.99 2) Various Jack Links Beef Jerky: \$9.29 3) Red Bull: \$5.49. The FNS investigation report noted that *“Most items in the store are not priced cashier had to give me price.”* (Exhibit 18)
8. The FNS flagged as suspicious the following EBT transactions made at [REDACTED] with the EBT card matching the Defendant’s household number ([REDACTED]) and ending in [REDACTED]:

Date	Amount	Location	Last 4 digits of EBT account
[REDACTED]/2022	\$45.08	[REDACTED]	[REDACTED]
[REDACTED]/2022	\$112.27	[REDACTED]	[REDACTED]

(Exhibit 1, Hearing Record)

9. The Department flagged as suspicious the following EBT transactions made at [REDACTED] with the EBT card matching the Defendant’s household number ([REDACTED]) and ending in [REDACTED]:

Date	Amount	Location	Last 4 digits of EBT account
█/2022	\$7.87	█	█
█/2022	\$45.08	█	█
█/2022	\$2.79	█	█
█/2022	\$112.27	█	█
█/2023	\$5.58	█	█
█/2023	\$16.72	█	█
█/2023	\$8.37	█	█
█/2023	\$10.76	█	█
█/2023	\$5.58	█	█
█/2023	\$8.27	█	█
█/2023	\$13.75	█	█
█/2022-█/2023	Total: \$237.04		

(Exhibit 1, Exhibit 2, Hearing Record)

10. On █, 2023, █, 2023, and █, 2023, the Defendant's EBT card ending in █ registered one invalid Personal Identification Number ("PIN") entry prior to a purchase at the █ on each of the dates. (Exhibit 2)

9. The Department alleges that the Defendant's █, 2022, purchase of \$45.08 matched several others flagged by the FNS as ending in the same cents amount and constituted trafficking. The Department also alleges the Defendant's █, 2022, purchase of \$112.27 was unusually large for the store and therefore constituted trafficking. In addition, the Department claims the invalid PIN entries made on the Defendant's EBT card ending in █ 7 at the █ on █, 2023, █, 2023, and █, 2023, indicate that the Defendant was engaged in trafficking. (Exhibit 1, Department's testimony)

10. The Department alleges that between █, 2022, and █, 2023, the Defendant trafficked \$237.04 in SNAP benefits. The amount was determined by totaling the Defendant's EBT transaction history at the █ during the aforementioned time period. (Exhibit 2, Exhibit 13: Manual Overpayment Details screen print █/22-█/23, Department's testimony)

11. The Department alleges that the Defendant committed an IPV by trafficking her SNAP benefits and seeks to disqualify her from the SNAP for twelve (12) months. In addition, the Department wishes to recoup the \$237.04 in SNAP benefits they identified as having been trafficked. Recoupment has not yet started on the Defendant's case. (Hearing Record, Department's testimony)

12. On [REDACTED], 2024, the Department conducted a home visit at the Defendant's home. Three Departmental investigators, Investigator Monroe, Investigator Boothe, and Investigator Loveland, were present at the home visit. The Defendant's son, [REDACTED], provided translation during the home visit at the Defendant's request. The Department discussed the alleged IPV with the Defendant and contends that the Defendant stated (via her son's translation) that the [REDACTED] would allow her to take groceries on credit when she didn't have any benefits on her EBT card and pay for the items with said card later. The Defendant and her son deny this contention and deny the Defendant ever took items from the [REDACTED] on credit. After the discussion, the Department presented the Defendant with a waiver of disqualification form (W-1449) in both English and Spanish (W-1449S). The Defendant declined to sign the W-1449/W-1449S and requested to move forward with an ADH. (Exhibit 20: Letters from Investigator Boothe and Investigator Loveland dated [REDACTED]/24, Appellant's Exhibit A, Defendant's testimony, Department's testimony)
13. The Defendant's case has not been referred for civil or criminal prosecution. (Department's testimony)
14. The Defendant most recently attested that she had read and understood the SNAP Rights and Responsibilities form when she signed her SNAP renewal on [REDACTED], 2022. (Exhibit 3: SNAP W-1ER renewal dated [REDACTED]22, Exhibit 12: Rights and Responsibilities forms, Department's testimony)
15. 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 ([REDACTED]) days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled. The OLCRAH notified the Defendant of the initiation of the ADH process via certified mail on [REDACTED], 2024, making this decision due no later than [REDACTED], 2024. However, the hearing record was extended ([REDACTED]) days to allow for the submission of information from the Defendant and the Department. Therefore, this decision is due not later than [REDACTED], 2024. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes (Conn. Gen. Stat.) § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

The Department has the authority to administer the SNAP.

2. Conn. Gen. Stat. § 17b-88 provides if a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program, or

supplemental 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 (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 recoup SNAP benefits.

3. 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 to conduct Administrative Disqualification Hearings.

4. 7 C.F.R. § 273.16(e)(3) provides for the advance notice of the hearing. (i) The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either first class mail or certified mail return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first-class mail and is returned as undeliverable, the hearing may still be held. (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.

The Defendant was properly notified of the ADH on [REDACTED], 2024. On that date, a packet containing the date, time, and place of the hearing, a summary of the charges against the Defendant, a summary of the evidence (including how and where it can be examined,) as well as 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. The Defendant accepted the packet and appeared for the ADH on [REDACTED], 2024.

5. 7 C.F.R. § 273.16(a)(1) provides that 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.

The Defendant's case has not been referred for civil or criminal prosecution. The ADH was properly initiated by the Department.

6. 7 C.F.R. § 273.16(a)(3) provides 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 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.

The Defendant did not sign or return the Waiver of Disqualification Hearing form (W-1449) the Department provided her on [REDACTED], 2024.

7. 7 C.F.R. § 273.16(c) provides the *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; 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. § 271.2 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.

7 C.F.R. § 273.16(e)(6) provides the Criteria for determining intentional Program violation. 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 as defined in paragraph (c) of this section.

The Department failed to establish with clear and convincing evidence that the Defendant willfully committed an IPV by trafficking SNAP benefits.

8. 7 C.F.R. § 273.16(b)(12) provides 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.

7 C.F.R. § 273.18(a)(1)(ii) provides that recipient claim is an amount owed because of: (ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

7 C.F.R. § 273.18(b) provides for types of claims. There are three types of claims: (1) Intentional Program violation (IPV) any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16. (2) Inadvertent household error (“IHE”) defined as any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household; (3) Agency error (“AE”) defined as any claim for an overpayment caused by an action or failure to take action by the State agency.

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

The Defendant is not responsible to make restitution for the \$237.04 in SNAP benefits the Department proposed for recoupment.

DISCUSSION

During the ADH, the Department attempted to establish that the Defendant committed an IPV of trafficking by presenting evidence and testimony that linked the Defendant’s EBT card to transactions made at the [REDACTED]; a business the FNS found to have committed trafficking violations. The Department’s main evidence that the Defendant participated in trafficking were two transactions (see FOF #7) completed with the Defendant’s EBT card that appeared on the FNS’ list of EBT transactions which established “*clear and repetitive patterns of unusual, irregular, and inexplicable activity*” for the type of business [REDACTED] was operating (see FOF #3 and #4). Additionally, the Department pointed to three invalid PIN entries (see FOF #9) as proof that the Defendant trafficked her SNAP benefits. However, the Department failed to provide any evidence of the items purchased in the transactions in question and did not provide any evidence as to why all of the transactions made by the Defendant between [REDACTED], 2022, and [REDACTED], 2023, at the [REDACTED], not just those on the FNS report, were allegedly trafficked.

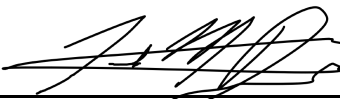
As outlined in 7 C.F.R. § 273.16(e)(6), the standard of proof for determining whether an IPV has been committed must be clear and convincing. Although the Defendant did complete two transactions appearing on the FNS' list, both of these transactions were flagged by the FNS in relation to the business under investigation (i.e., the [REDACTED]); not the Defendant. No evidence was provided by the Department to establish that these transactions, or any others made by the Defendant at the [REDACTED], were completed with the intent to buy, sell, steal, or otherwise exchange her SNAP benefits for consideration other than eligible food. Simply completing one transaction in a specific dollar amount and another in an amount considered "unusually high" by the FNS does not constitute clear and convincing evidence that the Defendant participated in trafficking.

As to the assertion by the Department that the three invalid PIN entries made on [REDACTED], 2023, [REDACTED], 2023, and [REDACTED], 2023, are proof that the Defendant was trafficking her SNAP benefits, the undersigned does not find invalid PIN entries to be convincing proof of trafficking without supporting documentation to provide context.

Lastly, the starkly different testimonies regarding key points of the discussion which took place on [REDACTED], 2024, between the Defendant and the Department's investigators (see FOF # 12) raises questions as to whether the Defendant's son was able to provide adequate translation during the discussion and whether he was accurately translating the Defendant's responses. Absent a recording or transcript of what was discussed, the undersigned does not find the Department's testimony and evidence regarding this discussion to rise to the level of clear and convincing.

DECISION

The Defendant is **NOT GUILTY** of committing a SNAP Intentional Program Violation for trafficking SNAP benefits and is not responsible to make restitution for the \$237.04 the Department proposed for recoupment.



Joseph Davey
Administrative Hearing Officer

CC: Megan Monroe, Social Services Lead Investigator, DSS Central Office
OLCRAH.QA.DSS@ct.gov

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.