

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

[REDACTED], 2024
Signature Confirmation

Case # [REDACTED]
Client ID # [REDACTED]
Request # 237180

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received a request for an Administrative Disqualification Hearing ("ADH") seeking disqualification of [REDACTED] (the "Defendant") from participation in the Supplemental Nutrition Assistance Program ("SNAP") for twelve (12) months from the Department of Social Services ("Department") Investigations and Recoveries Division ("Investigations Unit"). The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") by trafficking SNAP benefits. The Department also seeks to recover overpaid SNAP benefits of \$342.43.

On [REDACTED], 2024, the OLCRAH mailed the Defendant a Notice of Administrative Hearing via United States Postal Service ("USPS") certified mail informing the Defendant that the Department scheduled an Administrative Disqualification hearing for [REDACTED], 2024. The notice included notification of the Defendant's rights in these proceedings, the Department's hearing summary, and evidence supporting the Department's case against the Defendant.

On [REDACTED] 2024, the OLCRAH sent the notification and hearing packet to the Defendant by first-class mail. The certified mail packet was not signed for per USPS tracking.

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 section 273.16, subsection (e).

The following individuals were present at the hearing:

Nickola Boothe, Investigator, Department's Representative
Scott Zuckerman, Fair Hearing Officer

The Defendant was not present at the hearing. The Defendant did not establish good cause for failing to appear at the hearing.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV of the SNAP and is subject to a twelve (12) month disqualification penalty under the SNAP.

The second issue to be decided is whether the Department's proposal to pursue a SNAP overpayment claim for the period of [REDACTED] 2022, through [REDACTED] 2023, of \$342.43 is correct.

FINDINGS OF FACT

1. The Defendant is a recipient of SNAP benefits. (Department's testimony)
2. On [REDACTED], 2021, the Defendant applied for SNAP benefits for a household of three. The application's Rights and Responsibilities states that in part that, "If I break a SNAP rule on purpose, I am ineligible to get SNAP. The first time I break a rule I will not be able to get SNAP for one year." "If I am found guilty of trafficking SNAP benefits of \$500 or more, I cannot get SNAP ever again. Trafficking in SNAP means selling them instead of using them to buy food." "If I intentionally misuse an EBT card, I may no longer get SNAP. I may also be fined up to \$250,000 or sent to jail for up to 20 years or both. Misuse of an EBT card means altering, selling, or trading a card, using someone else's card without permission or exchanging benefits." The Defendant acknowledged that improper EBT card usage leads to disqualification. (Hearing Summary, Exhibit 13: W-0016RR, Rights and Responsibilities and Exhibit 14: Application, [REDACTED]/21)

3. During the period of [REDACTED] 2022, through [REDACTED], 2023, the Defendant was able to access her SNAP benefits from her Electronic Benefit Transfer ("EBT") account using her personal EBT card issued by the Department and a Personal Identification Number ("PIN") that she selects as the EBT recipient. (Hearing Record)
4. An investigation by the Department and the United States Department of Agriculture("USDA") Food and Nutrition Service ("FNS") revealed that the owner of [REDACTED], [REDACTED] engaged in SNAP trafficking. An analysis of the records, including a review of the store characteristics, food stock, and store pricing gathered from the visit(s) to the store reveal EBT transactions that establish clear and repetitive patterns of unusual, irregular, and inexplicable activity for their type of firm. (Exhibit 1: USDA Investigative Summary, [REDACTED] 2023)
5. Between [REDACTED], 2022, and [REDACTED], 2023, the Defendant conducted the following EBT transactions at [REDACTED] located at [REDACTED], [REDACTED] using her personal EBT card totaling \$342.43:

Transaction Date	Transaction Time	Transaction Amount
[REDACTED]/22	12:55 PM	\$120.80
[REDACTED]/23	6:50 AM	\$85.08
[REDACTED]23	12:54 PM	\$68.50
[REDACTED]/23	6:56 AM	\$68.05
Total		\$342.43

(Exhibit 1 and Exhibit 3: Transaction Detailed Report)

6. The USDA investigation of [REDACTED] analyzed transactions that occurred during the months of [REDACTED] 2022 through [REDACTED] 2023. (Exhibit 1)
7. The USDA investigation of [REDACTED] revealed that in a series of EBT transactions, there were a large number of transactions ending in the same cents value. Fifty-five transactions ended in 08, including the Defendant's [REDACTED] 2023, transaction. (Exhibit 1Attachment 1)
8. The USDA investigation of [REDACTED] revealed that in a series of EBT transactions, there were a large number of transactions in repeated dollar values. (Ex. 1 attachment 2)

9. The USDA investigation of [REDACTED] revealed that in a series of EBT transactions, multiple transactions were made from the accounts of individual households within a set time period. (Ex. 1 attachment 3)
10. The USDA investigation of [REDACTED] revealed that in a series of EBT transactions, [REDACTED] conducted EBT transactions that are large based on the observed store characteristics and recorded food stock. (Ex. 1 attachment 4 and Ex. 15: USDA Food and Nutrition Service (“FNS”) General Store Information Sheet and Photos)
11. The USDA investigation of the store indicates there are no shopping baskets or carts available for customer use. (Exhibit 15: General Store Information and Characteristics report by FNS)
12. The store does not sell food items as bundles. (Exhibit 15) ‘
13. The six most expensive food items (\$5.00 or higher) sold at [REDACTED] are as follows: Red Bull \$5.49 20 oz; Jack Links Beef Jerky 3.25 oz \$9.29; and Bacon 1 lb. \$9.99. (Exhibit 15)
14. The Department’s investigation concluded that the purchases made with the Defendant’s EBT card between [REDACTED], 2022, and [REDACTED], 2023, constitute an IPV in the SNAP program for trafficking due to (1) The [REDACTED] [REDACTED] where the purchases were made had been investigated by the USDA and permanently disqualified from participation in the SNAP program, (2) multiple transactions were made within a set time period, (3) there were a large number of transactions ending in as same cents value, (4) there were a large number of transactions in repeated dollar values and (5) the dollar amount of the purchases is unusually high considering the recorded stock and store characteristics. (Hearing Record)
15. On [REDACTED] 2023, the USDA issued a letter to Willi Quick Mart regarding the permanent disqualification from participating in the SNAP. (Exhibit 3: USDA Letter dated [REDACTED]/23)
16. On [REDACTED], 2024, the Department confirmed the Defendant had no record on any previous SNAP disqualifications (within the United States) through the Electronic Disqualification Recipient System (“EDRS”). (Exhibit 9: USDA EDRS Search)

17. On [REDACTED] 2024, the Department conducted a home visit to the Defendant's address. The Defendant was not home and the Department left the following letters/forms to the Defendant: (1) Administrative Disqualification Hearing Process and Rights Information Sheet, (2) W-1448 "Notice of Prehearing Interview Food Stamp Program", and (3) W-1449 "State of Connecticut Department of Social Services Waiver of Disqualification Hearing SNAP Program."

The W-1448 form informed the Defendant she must sign the form by [REDACTED] 2024, if she chooses to waive her rights to an administrative disqualification hearing.

The W-1449 form explains the disqualification, waiving one's right to an administrative disqualification hearing, and provides the Investigators' name and contact information.

(Exhibit 5: W-1448, Exhibit 6: W-1449, and Exhibit 7: ADH Process and Rights Information Sheet)

18. The Defendant did not submit a signed W-1448 form. The Defendant did not contact the Department or attend the interview set for [REDACTED] 2024. (Department Representative Testimony)

19. 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 Representative Testimony)

20. 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 within 90 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 State agency shall conduct a hearing, arrive at a decision and notify the household member and local agency of the decision. The Department requested an administrative disqualification hearing on [REDACTED] 2024. Therefore, the decision is due no later than [REDACTED] 2024. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes ("Conn. Gen. Stat.") 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 and oversee 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 nutritional assistance program receives an 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 actions 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 nutritional assistance program, the aid to the families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.16 (e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of an Intentional Program Violation ("IPV").

The Department has the authority to conduct Administrative Disqualification Hearings.

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.

The Department properly notified the Defendant of the ADH hearing.

The Defendant was not present at the hearing, nor did she show good cause for having failed to appear.

4. 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 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.

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

5. 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 failed to sign and return the disqualification consent agreement.

6. 7 C.F.R. § 271.2 defines trafficking as the buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than

eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; 2. The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of Title 21, United States Code, for SNAP benefits; 3. Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount. 4. Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food. or 5. Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food. 6. Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

7 C.F.R. § 273.16(c) defines IPV as follows: For purposes of determining through administrative disqualification hearings whether or not 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, or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or reusable documents used as part of an automated delivery system (Access device).

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.

7 C.F.R. § 284.1(a) provides Section 1101 of the Families First Coronavirus Response Act (FFCRA; Pub. L. 116–127), as amended, authorized supplemental allotments to certain households. These benefits shall be referred to as Pandemic Electronic Benefits Transfer (P–EBT) benefits throughout this section. This section establishes the retailer integrity regulations for P–EBT for retailers in any State as defined in Section 3(r) of the Food and Nutrition Act.

7 C.F.R. § 284.1(b)(1) defines trafficking as activities described in the definition of trafficking at § 271.2 of this chapter when such activities involve P-EBT benefits.

The Department provided clear and convincing evidence demonstrating the Defendant committed trafficking of her SNAP resulting in an IPV.

7. 7 C.F.R. § 273.16 (e)(8)(i) provides that 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 must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16 (b)(1)(i) provides that 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)(5) provides for disqualification penalties and states that individuals found to have committed an IPV shall be ineligible to participate in the program for a period of twelve months for the first IPV. except as provided under paragraphs (b)(2), (b)(3), (b)(4) and (b)(5) of this section.

The Department correctly seeks to disqualify the Defendant for a first offense IPV resulting in ineligibility of participation in the SNAP for a period of twelve (12) months.

8. 7 C.F.R. § 273.16 (b) (12) provides that even though 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) provides claims against households. (a) General. (1) recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined in 7 C.F.R. 271.2. (2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these

regulations. (3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to corrective action to correct any deficiencies in the plan. (4) 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; (ii) A person connected to the household, such as an authorized representative; who actually traffics or otherwise causes and overpayment of trafficking.

7 C.F.R. § 273.18 (c)(2)(iii) provides for calculating the claim amount. Trafficking related claims. 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.

The Department correctly determined the Defendant committed an IPV of the SNAP and incurred an overpayment totaling \$342.43 as a result of her trafficking violation.

The Department is correct to seek recoupment of the \$342.43 overpayment of SNAP benefits from the Defendant.

DISCUSSION

Based on the testimony from the administrative disqualification hearing, and the evidence entered into the hearing record, I find the Department has established with clear and convincing evidence to support its claim that the Defendant is guilty of committing an intentional program violation (trafficking) of the SNAP.

DECISION

The undersigned hearing officer finds the Defendant **GUILTY** of committing a first-offense Intentional Program Violation due to the trafficking of his SNAP benefits. The Department's request to disqualify the Defendant from participation in the SNAP for a period of twelve months is **GRANTED**.

The undersigned hearing officer finds the Defendant is responsible for making full restitution of the SNAP overpayment. The Department's request to recover the overpayment of \$342.43 is **GRANTED**.

Scott Zuckerman
Scott Zuckerman
Hearing Officer

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.