

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 # 239519

**ADMINISTRATIVE DISQUALIFICATION HEARING**

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2024, 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”) due to an unauthorized use of a deceased member’s benefits. The Department seeks to recover overpaid SNAP benefits of \$165.19 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 again 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 USPS.

On [REDACTED], 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 participated in the ADH by telephone:

[REDACTED], Defendant  
Ashley Miller, Department’s Investigator  
Kristin Haggan, Fair Hearing Officer

The hearing record was held open for [REDACTED] extra day to allow the Department’s Investigator and the Defendant to provide additional documents. The undersigned received documents from both parties, and closed the hearing record on [REDACTED] 2024.

### **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 \$165.19 for the period of [REDACTED] 2023, through [REDACTED] 2023.

### **FINDINGS OF FACT**

1. On [REDACTED] 2022, [REDACTED] (the “deceased member”) passed away. (*Hearing Record, Exhibit 2: Obituary*)
2. The deceased member was a recipient of SNAP benefits. (*Exhibit 3: The Deceased Member’s EPPIC Recipient Transaction History, Hearing Record*)
3. The Defendant was not an authorized representative or an authorized shopper on the deceased member’s SNAP case. (*Investigator’s Testimony, Defendant’s Testimony*)
4. The Defendant and the deceased member have two separate addresses and did not reside together. (*Investigator’s Testimony, Hearing Record*)
5. The Defendant did not know the deceased member. (*Defendant’s Testimony*)
6. The Defendant has never received SNAP benefits of her own. (*Investigator’s Testimony, Defendant’s Testimony*)

7. The Defendant has no previous IPVs. (*Department Investigator's Testimony, Exhibit 10: EDRS penalty printout*)
8. EPPIC is the computer system that the Department uses to verify the date, time, and store location where an EBT card was utilized. (*Hearing Record*)
9. The deceased member's EBT card ending in [REDACTED] was used several times after her [REDACTED] 2022, date of death. (*Exhibit 3*)
10. On [REDACTED] 2023, a transaction for \$81.65 was completed at [REDACTED] using the Defendant's [REDACTED] loyalty card ending in [REDACTED]. The deceased member's EBT card ending in [REDACTED] was used to pay \$50.65 in food stamps towards the transaction, and a debit card ending in 7038 was used to pay the remaining balance of \$30.46. (*Exhibit 3, Exhibit 6: Defendant's [REDACTED] Loyalty Card Records, Exhibit 13: Email from RBS Asset Protection Investigations with [REDACTED] Loyalty Card Information*)
11. The Department was unable to verify the owner of the debit card that was used to complete the transaction at [REDACTED] on [REDACTED], 2023. (*Department Investigator's Testimony*)
12. On [REDACTED] 2023, a transaction for \$114.54 was completed at [REDACTED] using the Defendant's [REDACTED] loyalty card ending in 0261. The deceased member's EBT card ending in [REDACTED] was used to pay for the full transaction with food stamps. (*Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7, Exhibit 13*)
13. On [REDACTED], 2023, the Department emailed RBS Asset Protection Investigations Group ("RBS") and requested that they provide the [REDACTED] customer loyalty information that was used in conjunction with the EBT card ending in [REDACTED] on [REDACTED], 2023 and [REDACTED] 2023, as well as receipts for the transactions. RBS responded via email and provided the [REDACTED] loyalty card information belonging to the Defendant, and the requested receipts for both transaction dates. (*Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 13*)
14. On [REDACTED] 2023, the Department issued a referral to the Investigations Unit stating that [REDACTED] passed away on [REDACTED], 2022, and that her EBT card was used after her death along with the [REDACTED] loyalty card belonging to the Defendant. (*Exhibit 1: Investigation Referral*)
15. The Defendant was not present in [REDACTED] on the dates of [REDACTED], 2023, and [REDACTED] 2023, when her [REDACTED] card was used. An acquaintance named [REDACTED] (the "Acquaintance") used the Defendant's [REDACTED] loyalty card by entering the Defendant's phone number into the keypad when cashing out. The Defendant was unaware that the Acquaintance was using her [REDACTED] loyalty card and did not give her permission to do so. (*Defendant's Testimony*)

16. The debit card ending in [REDACTED] that was used on [REDACTED] 2023, to pay the remaining balance of \$30.46, belongs to the Acquaintance. The Acquaintance used the deceased member's EBT card and the Defendant's [REDACTED] loyalty card to complete the transactions on [REDACTED], 2023, and [REDACTED] 2023. (*Defendant's Testimony, Exhibit 14: Letter from [REDACTED]*)
17. On [REDACTED] 2024, the Investigator spoke with the Defendant on the phone regarding the ADH waiver form that was sent to her. The Defendant confirmed that she would continue with the ADH and requested that it be held by phone. (*Department Investigator's Testimony, Defendant's Testimony*)
18. The issuance of this decision is timely under Title 7 Section 273.16(e)(2)(iv) of the Code of Federal Regulations ("C.F.R.") which requires that the agency issue a decision within 90 days of the notice of the initiation of the ADH process. On [REDACTED] 2024, OLCRAH mailed the Defendant notification of the initiation of the ADH process. The record was held open for [REDACTED] extra day to allow the Department's Investigator to provide additional documents. The record closed on [REDACTED] 2024. This decision is due no later than [REDACTED] 2024.

### **CONCLUSIONS OF LAW**

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

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(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.

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 administer the SNAP program and conduct Administrative Disqualification Hearings.**

2. 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**

██████████ 2024, OLCRAH received the unsigned return receipt from the USPS. On ██████████ 2024, OLCRAH mailed the Defendant the notification again via certified mail, and on ██████████, 2024, OLCRAH received the unsigned return receipt from the USPS. On ██████████, 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 by phone that was held with the ██████████ Regional Office.**

3. 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.**

4. Title 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.

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.**

**On [REDACTED], 2024, the Defendant informed the Department that she wanted to proceed with the ADH.**

7. Title 7 C.F.R. § 274.7(a) provides that program benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households, the purchase of prepared meals, and for other households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with benefits.
8. Title 7 C.F.R. § 273.2(n) provides that an authorized representative may be authorized to act on behalf of a household in the application process, in obtaining SNAP benefits, and in using SNAP benefits.

**The Department correctly determined that the Defendant was not an authorized representative for the deceased member, and she was not a member of the deceased member's household.**

**The Department correctly determined that the Defendant was not authorized to use the deceased member's benefits after her death.**

9. 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; (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) 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, IPVs shall consist of having intentionally:

- (1) made a false or misleading statement, or misrepresented, concealed, or withheld facts.

**The Department correctly determined that stealing SNAP is a trafficking offense.**

10.7 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 the Defendant used the deceased member's EBT card in combination with her [REDACTED] loyalty card and an unknown debit card to complete the transaction on [REDACTED], 2023.**

**The Department incorrectly determined that the Defendant used the deceased member's EBT card in combination with her [REDACTED] loyalty card to complete the transaction on [REDACTED] 2023.**

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

11.7 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 incorrectly established that the Defendant committed an IPV of the SNAP program and is subject to a disqualification penalty period of twelve (12) months.**

12.7 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.

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

Title 7 C.F.R. § 273.18(c)(2) provides for calculating the claim amount from trafficking-related claims. Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

- (i) The individual's admission;
- (ii) Adjudication; or
- (iii) The documentation that forms the basis for the trafficking determination.

**The Department incorrectly established that the Defendant committed an IPV due to trafficking and is subject to recoupment of the SNAP benefits totaling \$165.19 that were used from the deceased member's EBT card on [REDACTED] 2023, and [REDACTED] 2023.**

### **DISCUSSION**

At the ADH the Defendant stated that she did not use the deceased member's EBT card on [REDACTED] 2023, and [REDACTED] 2023. The Defendant stated that an acquaintance of hers used the deceased member's EBT card in combination with the Defendant's [REDACTED] loyalty card to complete the purchases on both dates. The Defendant states that she was not present in the store at the time of the transactions and that the Acquaintance used her [REDACTED] loyalty card information without her permission.

The Defendant provided a signed letter from the Acquaintance stating that the Acquaintance was the person who completed the transactions on [REDACTED] 2023, and [REDACTED] 2023, using her own debit card, the Defendant's store loyalty card, and the deceased member's EBT card.

The Department stated during the ADH that they could not verify whose debit card was used in conjunction with the Defendant's store loyalty card and the deceased member's EBT card. The Department did not have any photographs or visual evidence of who visited the store and completed the purchases.

The Department did not present clear and convincing evidence to support its position that the Defendant trafficked the deceased member's SNAP benefits and 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 \$165.19 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 deceased member's SNAP benefits used for the period [REDACTED], 2023, through [REDACTED] 2023, of \$165.19.
- 3) Compliance is due 14 days from the date of this decision.

*Kristin Haggan*

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Kristin Haggan  
Fair Hearing Officer

CC: [OLCRAH.QA.DSS@CT.gov](mailto:OLCRAH.QA.DSS@CT.gov)  
Ashley Miller, 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.