

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

██████████ 2024
Signature confirmation

Case: ██████████
Client: ██████████
Request: 240202

SNAP ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
████████████████████
████████████████████

PROCEDURAL BACKGROUND

The State of Connecticut Department of Social Services (the "Department") petitions the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to conduct an administrative disqualification hearing to disqualify ██████████ (the "Defendant") from participating in the Supplemental Nutrition Assistance Program ("SNAP" or "the Program") for 12 months.

On ██████████, 2024, the OLCRAH issued the Defendant a *Notice of Administrative Hearing* with the Department's summary and exhibits by certified mail to her most recent address. The mailing informed the Defendant that an administrative disqualification hearing would be conducted on ██████████ ██████████ 2024 even should she fail to appear.

On ██████████ 2024, the OLCRAH mailed the Defendant a second copy of the *Notice of Administrative Hearing* with the Department's summary and exhibits by regular mail.

On ██████████ 2024, the OLCRAH conducted the administrative disqualification hearing in accordance with Section 273.16 (e) of Title 7 of the Code of Federal Regulations ("C.F.R."). The following individuals participated:

██████████, Defendant
Ashley Miller, Department Representative
Eva Tar, Hearing Officer

The hearing record closed ██████████, 2024.

STATEMENT OF ISSUE

The issue of this administrative disqualification hearing is whether the Department established by clear and convincing evidence that the Defendant had committed an intentional Program violation, permitting the Department to disqualify her from participating in the Program for 12 months.

The Department also seeks affirmation of its intent to recover \$170.21 from the Defendant.

FINDINGS OF FACT

1. [REDACTED] (the "Deceased") expired on [REDACTED] 2022 in [REDACTED], Connecticut. (Exhibit 2)
2. The Deceased received SNAP benefits under Electronic Benefits Transaction account [REDACTED] (the "EBT account"). (Exhibit 3)
3. The Department continued to issue SNAP benefits to the Deceased's EBT account through [REDACTED] 2023, as the Department was unaware that the Deceased had passed away until it received a Social Security Administration alert. (Department Representative Testimony)
4. On [REDACTED] 2022, the Defendant's ShopRite loyalty discount was used at the [REDACTED] located at [REDACTED] Connecticut in conjunction with a \$170.21 purchase of groceries with the Deceased's EBT account. (Exhibits 4, 5, and 6) (Department Representative Testimony)
5. On [REDACTED] 2023, a senior supervisor with [REDACTED] notified the Department by email that the Defendant's [REDACTED] discount had been used in conjunction with the Deceased's EBT account for a \$170.21 purchase on [REDACTED] 2022. A different [REDACTED] customer's discount had been used in conjunction with the Deceased's EBT account in transactions completed on [REDACTED] 2022 (\$295.33); [REDACTED], 2023 (\$55.16); and [REDACTED] 2023 (\$27.66). (Exhibit 4)
6. The [REDACTED] records do not note whether a scannable token or a telephone number was used to access the Defendant's [REDACTED] discount on [REDACTED] 2022. (Department Representative Testimony) (Exhibits 4, 5, and 6)
7. On [REDACTED] 2023, the Department initiated an investigation into the usage of the Deceased's SNAP benefits from her EBT account following her death. (Exhibit 1)
8. On [REDACTED] 2024, the Department issued a *Notice of Prehearing Interview* to the Defendant, alleging that the Defendant had received \$170.21 by using the Deceased's EBT benefits after her passing on [REDACTED], 2022. The *Notice* included a waiver of the SNAP administrative disqualification hearing and required the Defendant's signature by [REDACTED] 2024. (Exhibit 7)
9. The Defendant believed that the Department's *Notice* was a scam, as the Defendant had not received SNAP benefits since 2018. (Defendant Testimony)

10. The Defendant did not sign and return the *Notice* or the accompanying waiver to the Department. (Exhibit 7) (Hearing record)
11. The Defendant rarely shops at [REDACTED]; when she does, she uses her telephone number to access her [REDACTED] discount. (Defendant Testimony)
12. The Defendant does not have the [REDACTED] scannable token; the Defendant threw the token in the garbage years ago because it was too large for her keyring. (Defendant Testimony)
13. The Defendant did not know the Deceased; the Defendant was not a relative, friend, or neighbor of the Deceased. The Defendant did not recognize the Deceased's address. (Defendant Testimony)
14. The Department has no knowledge of the Deceased's EBT card having been sold online. (Department Representative Testimony)
15. Title 7, Section 273.16 (e)(2)(iv) of the Code of Federal Regulations ("C.F.R.") provides 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 the hearing, arrive at a decision and notify the household member and local agency of the decision...." On [REDACTED], 2024, the Defendant received notification in writing of OLCRAH's scheduling of an administrative disqualification hearing. This final decision would become due by [REDACTED] 2024. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department 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 of the Connecticut General Statutes provides in part that the Department may take such action as conforms to federal regulations, including, but not limited to conducting administrative disqualification hearings for cases involving alleged fraud in the supplemental nutrition assistance program.

Title 7, Section 273.16 (a)(1) of the Code of Federal Regulations ("C.F.R.") addresses Program disqualification for intentional Program violations with respect to the SNAP and provides in part: "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...."

State statute and Federal regulation permit the Department to initiate a SNAP administrative disqualification hearing.

2. Title 7, Section 273.18 of the Code of Federal Regulations addresses claims against households and the recovery of overissued or trafficked SNAP benefits.

The Department has the authority under Federal regulation to impose administrative disqualification penalties to individuals who have intentionally committed program violations of the SNAP.

State statute and Federal regulation permit the Department to pursue recovery of overissued SNAP benefits.

3. *“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. § 273.16 (c).

“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, intentional Program violation as defined in paragraph (c) of this section.” 7 C.F.R. § 273.16 (e)(6). (emphasis added)

Title 7, Section 273.16 (b)(1) of the Code of Federal Regulations provides the penalties associated with a finding by an administrative disqualification hearing or by a Federal, State, or local court that an individual has committed an intentional Program violation.

The Department did not establish that the Defendant intentionally 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.

The Department did not establish by clear and convincing evidence that the Defendant had committed an intentional Program violation of the SNAP.

The Department may not disqualify the Defendant from participating in the SNAP for 12 months, as the Department has not established by clear and convincing evidence that the Defendant had committed an intentional Program violation.

4. “A recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined at 7 C.F.R. § 271.2.” 7 C.F.R. § 273.18 (a)(1).

“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 trafficks or otherwise causes an overpayment or trafficking.” 7 C.F.R. § 273.18 (a)(4).

The Defendant did not receive overpaid SNAP benefits and did not traffick the Deceased’s SNAP benefits.

The Department may not recover \$170.21 from the Defendant.

DISCUSSION

The Defendant testified that she did not know the Deceased, the Defendant rarely shopped at [REDACTED] and when the Defendant did, the Defendant used her personal telephone number to access her [REDACTED] discount [REDACTED]. Overall, the Defendant's verbal demeanor throughout the hearing fluctuated between bewilderment and disbelief. The Defendant's testimony was consistent and forthright; the hearing officer found the Defendant's testimony credible.

It is plausible that a [REDACTED] cashier miskeyed the telephone number of the individual who used the Deceased's EBT card and entered the Defendant's telephone number in error.

For a hearing officer to find that an individual is subject to disqualification from participating in the SNAP, the Department must establish by clear and convincing evidence¹ that a specific individual committed an intentional Program violation. In the Defendant's case, the Department did not reach this burden of proof.

DECISION

The Department's petition to disqualify the Defendant from participating in the SNAP for 12 months is DENIED. The Defendant is not guilty of an intentional Program violation.

The Department will not pursue recovery of \$170.21 in SNAP benefits from the Defendant.

ORDER

1. The Department is instructed to notify the Defendant in writing that it is no longer pursuing her disqualification from the SNAP.
2. Within 14 calendar days of the date of this Decision, or [REDACTED] 2024, documentation of compliance with this Order is due to the undersigned. Compliance is met by submission of a copy of the correspondence to the Defendant.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Ashley Miller, DSS-Bridgeport
OLCRAH.QA.DSS@ct.gov

¹ **clear and convincing evidence.** Evidence indicating that the thing to be proved is highly probable or reasonably certain. This is a greater burden than preponderance of the evidence, the standard applied in most civil trials, but less than evidence beyond a reasonable doubt, the norm for criminal trials. — Also termed *clear and convincing proof*. Black's Law Dictionary 577 (7th ed. 1999).

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.