

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

[REDACTED]
SIGNATURE CONFIRMATION

Case ID # [REDACTED]
Client ID # [REDACTED]
Request # 227053

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received a request for an Administrative Disqualification Hearing (“ADH”) seeking the disqualification of [REDACTED] (the ‘Defendant’) from participation in the Supplemental Nutritional Assistance Program (“SNAP”) for ten (10) years from the Department of Social Services (the “Department”) Investigations and Recoveries Division (“Investigations Unit”). The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) as a result of the Defendant receiving SNAP in the states of Massachusetts (“MA”) and Connecticut (“CT”) concurrently. If guilty of the violation, this would be the Defendant’s first IPV offense in the SNAP program.

On [REDACTED], the OLCRAH mailed the Defendant a Notice of Administrative Hearing via United States Postal Services (“USPS”) certified mail to [REDACTED], [REDACTED] informing the Defendant of the ADH scheduled for [REDACTED]. The Notice included notification of the Defendant’s rights in these proceedings, as well as the Department’s hearing summary and evidence supporting the Department’s allegations against the Defendant.

On [REDACTED], the hearing packet sent via USPS certified mail was delivered to an individual.

On [REDACTED] [REDACTED] [REDACTED], the OLCRAH mailed the Defendant a Non-Receipt of Administrative Disqualification Hearing notice, which included a copy of the complete ADH hearing packet, including notification of rights in these proceedings and the Department's hearing summary and evidence, via USPS first-class mail to [REDACTED]
[REDACTED]

The ADH packet sent via USPS first-class mail on [REDACTED], was not returned by the USPS.

On [REDACTED], in accordance with Sections ("§") 17b-88 of the Connecticut General Statutes ("Conn. Gen. Stat.") and Title 7, § 273.16 of the Code of Federal Regulations ("C.F.R.") OLCRAH held an Administrative Disqualification Hearing.

The following individuals were present at the hearing:

Salvatore Tordonado, Representative for the Department
Sara Hart, Hearing Officer

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

The hearing record remained open for four days for the Department to submit additional evidence. The Department provided evidence on [REDACTED], and the hearing record closed accordingly.

STATEMENT OF THE ISSUE

The issue is whether the Defendant committed an IPV of the SNAP program and is subject to a ten (10) year disqualification penalty under the SNAP.

FINDINGS OF FACT

1. In [REDACTED], the Department initiated an investigation for the Defendant under case # [REDACTED] regarding a suspected intentional program violation. (*Exhibit 8: Impact Activity History*)
2. The Defendant's Date of Birth ("DOB") is [REDACTED]. His State of CT Client ID # is [REDACTED]. (*Hearing Record*)
3. On [REDACTED] a Department investigator documented a completed home visit at [REDACTED] (*Exhibit 8*)

4. On [REDACTED], the Department investigator determined that the Defendant resided at [REDACTED] with [REDACTED] and that the Defendant, [REDACTED], and their mutual children comprised an intact family. (*Exhibit 8*)
5. [REDACTED] State of CT Client ID # is [REDACTED]. (*Hearing Record*)
6. [REDACTED] was the designated SNAP Head of Household (the "SNAP HOH") for SNAP EDG # [REDACTED], with certification dates of [REDACTED] through [REDACTED]. (*Exhibit 14: Federal SNAP Income Test*)
7. On [REDACTED], the Department's eligibility management system reflected the Defendant as a member of [REDACTED] household. (*Exhibit 13: Household Composition*)
8. On [REDACTED], the SNAP HOH contacted the Department's Benefit Center via telephone and disputed the Department's Determination that the Defendant resided in her home. The Department sent a request to the SNAP HOH for the Defendant's employment status, noting "If this is not received, the snap benefits will close." (*Exhibit 3: Case Notes*)
9. On [REDACTED], the State of MA granted SNAP benefits for the Defendant as a household comprised of one individual. (*Hearing Summary and Exhibit 1: PARIS Interstate HIT*)
10. On [REDACTED], the SNAP HOH contacted the Department regarding her receipt of a notice advising of the closure of her SNAP benefits. (*Exhibit 3*)
11. On [REDACTED], at 4:52 PM, the SNAP HOH submitted an online renewal ("ONRE") for SNAP, including the Defendant as a member of her household and indicating that he was a resident of the State of CT. The ONRE did not contain an address for the household. (*Exhibit 2: ONRE*)
12. On [REDACTED], the Department reviewed the SNAP HOH's ONRE and completed a telephone interview with the SNAP HOH. (*Exhibit 3: Case Notes*)
13. On [REDACTED], the SNAP HOH verified the Defendant's employment status to the Department. (*Exhibit 3*)
14. On [REDACTED], the Department's investigations division received a PARIS Interstate HIT match sheet indicating the Defendant was active on SNAP in the State of MA effective [REDACTED], with an address of [REDACTED]. The HIT sheet indicated a State of CT SNAP start date of [REDACTED], for the Defendant. The Defendant's name, date of birth, and Social Security number matched for the states of [REDACTED] and CT. The Defendant's State of CT Client ID # noted on the PARIS HIT is [REDACTED]. (*Exhibit 1*)

15. The Defendant received the following SNAP benefits from the State of MA:

Issuance Date	Amount
██████████	\$23.00
██████████	\$258.00
██████████	\$258.00
██████████	\$23.00
██████████	\$103.00
██████████	\$23.00
██████████	\$103.00
██████████	\$23.00
██████████	\$103.00
██████████	\$23.00
██████████	\$23.00

(Exhibit 4: mass.gov Email record)

16. Beginning ██████████, through ██████████, the Defendant accessed his SNAP EBT benefits issued by the State of ██████ *(Exhibit 4)*
17. The hearing record is void of evidence indicating the geographic location where the Defendant accessed his SNAP benefits issued by the State of ██████. *(Hearing Record)*
18. On ██████████ the State of ██████ discontinued the Defendant's SNAP benefits. *(Exhibit 4)*
19. On ██████████, the Department mailed the Defendant a W-1448, Notice of Prehearing Interview Food Stamp Program. The notice informed the Defendant that he broke the rules of the SNAP on purpose because he was receiving and using SNAP benefits issued to him by the States of ██████ and ██████ concurrently. The notice provided an appointment on ██████████, at 10:00 AM to discuss the charge and indicated a SNAP EDG/Assistance Unit # of ██████████, and that the Defendant was not the SNAP HOH. *(Exhibit 5: W1448)*
20. On ██████████, the Department mailed the Defendant a W-1449, Waiver of Disqualification Hearing SNAP Program, indicating that the Defendant was the HOH for SNAP EDG # ██████████. The notice informed the Defendant he broke the rules of the program on purpose, referring to it as an IPV, and that the Department disqualifies people who break the rules on purpose until the disqualification ends. The notice stated that people who lie about who they are, or where they live so they can get more than one SNAP award are disqualified for ten years. The Department proposed to impose a SNAP penalty and disqualify the Defendant from the SNAP for 10 years. The due date to return the signed form was ██████████. The Client ID # indicated on the W1449 is ██████████, which is the SNAP HOH's Client ID and not the Defendant's. *(Exhibit 6: W-1449, Hearing Record)*
21. There is no evidence in the hearing record that the Department issued SNAP benefits to the Defendant under SNAP EDG # ██████████ *(Hearing Record)*

22. The SNAP HOH received SNAP benefits under SNAP EDG # [REDACTED] for the period of [REDACTED] through [REDACTED] for six individuals, and [REDACTED] through [REDACTED] for seven individuals. (*Exhibit 10: Eligibility Determination Results, Exhibit 15: Benefit History Search*)
23. The Defendant has no prior SNAP IPV's. (*Exhibit 12: SNAP EDRS*)
24. The Defendant did not contact the Department to discuss the charges or sign the waiver form. (*Department's Testimony*)
25. 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's Testimony*)
26. The issuance of this decision is timely under Title 7 Section 273.16 I(2)(iv) of the Code of Federal Regulations, which requires that the Department issue a decision within 90 days of the initiation of the ADH process. On [REDACTED] the OLCRAH mailed the Defendant notification of the initiation of the ADH process, with this decision originally due [REDACTED]. The hearing record remained open for an additional four days, therefore this decision is due no later than [REDACTED].

CONCLUSIONS OF LAW

1. 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.

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.

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 and conduct Administrative Disqualification Hearings.

2. 7 C.F.R. § 273.16l(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 l(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. § 273.16l(4) provides in relevant part 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.

The Defendant was properly notified of the ADH on [REDACTED] and [REDACTED]. On those dates, a packet containing the date, time, and place of the hearing, a summary of the charges against the Defendant, a summary of the evidence, 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 failed to sign for the packet.

The Defendant did not appear for the scheduled ADH on [REDACTED] nor did he demonstrate good cause for failing to appear.

3. 7 C.F.R. § 273.2(c)(4)(iv) provides for the application date and states the date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day.

The Department received an online renewal application on [REDACTED] listing the Defendant as a household member.

4. 7 C.F.R. § 273.21(1) provides in part that except for households certified for longer than 12 months, and except as provided in paragraph I(2) of this sections, households must have a face to face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State Agencies may not require to report for an in office interview during their certification period, though they may request households to do so.

7 C.F.R. § 273.21(2) provides that the State agency may use a telephone interview instead of the face-to-face interview required in paragraph I(1) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone. The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

The Department interviewed the HOH of SNAP EDG # [REDACTED], [REDACTED] on [REDACTED] and did not complete an interview with the Defendant.

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 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 criminal or civil prosecution.

6. 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. (1) *Advance notification.* (i) The State agency shall provide written notification to the household member suspected of intentional Program violation that the member can waive his/her right to an administrative disqualification hearing. Prior to providing this written notification to the household member, the State agency shall ensure that the evidence against the household member is reviewed by someone other than the eligibility worker assigned to the accused individual's household and a decision is obtained that such evidence warrants scheduling a disqualification hearing. (ii) The written notification provided to the household member which informs him/her of the possibility of waiving the administrative disqualification hearing shall include, at a minimum: (A) The date that the signed waiver must be received by the State agency to avoid the holding of a hearing and a signature block for the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriately designated signature block; (B) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law; (C) The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the State agency; (D) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by the State agency. This opportunity shall consist of the following statements, or statements developed by the State agency which have the same effect, and a method for the individual to designate his/her choice: (1) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and (2) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result; (E) The telephone number and, if possible, the name of the person to contact for additional information; and (F) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

The W1448 Notice of Prehearing Interview and W1449 Waiver of Disqualification Hearing form issued on [REDACTED] incorrectly list the Defendant as the HOH and contain an incorrect Client ID # for the Defendant.

6. 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. § 273.16(e)(6) provides for 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 I of this section.

The Department failed to establish with clear and convincing evidence that the Defendant willfully committed an IPV by intentionally concealing his concurrent receipt of SNAP benefits in Massachusetts and Connecticut.

7. 7 C.F.R. § 273.16(b) provides for *Disqualification penalties*. (1) 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: (5) Except as provided under paragraph (b)(1)(iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.

The Department's determination that the Defendant be disqualified from the SNAP for 10 years is incorrect because the Department has failed to establish that the Defendant made fraudulent statements or misrepresented his residence.

DISCUSSION

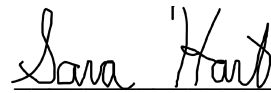
The evidence provided by the Department establishes that the Defendant, [REDACTED], was not a SNAP HOH in the State of [REDACTED] for the benefit months of [REDACTED] through [REDACTED]. While the Department's investigation verifies that the Defendant received SNAP in the State of [REDACTED] from [REDACTED], through [REDACTED], the evidence provided by the Department fails to establish that the Defendant was also receiving SNAP simultaneously in the State of [REDACTED] for the same period of time.

The hearing record remained open to provide the Department an opportunity to submit additional evidence supporting its assertion of the Defendant's receipt of concurrent benefits from CT and MA. The additional evidence submitted reflects CT SNAP benefits issued to [REDACTED] under SNAP EDG # [REDACTED], with no indication of receipt of [REDACTED]-issued SNAP benefits for the Defendant. The hearing record fails to establish that the Defendant himself misrepresented his residency or intentionally committed a violation of the SNAP program.

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 ten (10) years is **DENIED**.

A handwritten signature in black ink that reads "Sara Hart". The signature is written in a cursive style with a horizontal line underneath the name.

Sara Hart
Hearing Officer

Pc: 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 CT 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 CT 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.