



Appellant be included in the ROA. On September 16, 2019, the Appellant filed a response to the Department's motions requesting the court deny the Department's motions and dismiss the appeal with an adverse ruling against the Department and in the Appellant's favor.

### **DISCUSSION**

The Department sent the Appellant an Overpayment Demand Letter dated December 11, 2013, informing him that he had received an overpayment of SNAP benefits in the amount of \$3,400 for the period November 2011 through March 2013. The reason the Department asserted it had overpaid the Appellant was because the Appellant had pled guilty to a felony drug conviction in October 2004 and therefore was not eligible to receive SNAP benefits. The letter informed the Appellant that the Department may reduce his overpayment if it determined that the Appellant is unable to repay the amount. The Appellant did not appeal the Department's determination or request a hearing until August 13, 2018, over four years after receiving the Overpayment Demand Letter. 10 S.C. Code Ann. Regs. 114-180(C)(1)(a) mandates that "(r)equst(s) for hearing must be filed with the caseworker or OAH ... within ninety (90) days of notice of the adverse action for Food Stamps." Pursuant to this the Department dismissed the Appellant's request for a hearing on September 5, 2018 in an Order to Dismiss. The Appellant then filed a Motion to Reinstate Case on September 19, 2018. The Department denied this motion on November 5, 2018.

The Appellant then sought relief in this court by filing an appeal of the Department final decision. Initially, the Appellant filed his appeal on December 7, 2018. However, the appeal was incomplete, and the Clerk of Court notified the Appellant of this via a Memorandum dated December 13, 2018. Pursuant to ALC Rule 33, an appeal that does not contain all of the required information listed in Rule 33 will be deemed incomplete and not assigned to an administrative law judge until all information is received. The Appellant submitted additional documents to the court on January 7, 2019, however, those documents were again incomplete, and the Clerk of Court again notified the Appellant of the deficiency on January 8, 2019. The Appellant failed to take further action until February 14, 2019, when the court returned the Appellant's appeal unprocessed. Finally, on March 7, 2019, the Appellant perfected his appeal, and the case was assigned to an administrative law judge.

The Appellant argues that the Department erred in determining that he was ineligible to receive SNAP benefits and therefore should be entitled to a hearing on the overpayment of SNAP benefits due to his ineligibility. The Department argues that it did not err in determining that the Appellant was ineligible to receive SNAP benefits and therefore is authorized to demand reimbursement for the overpayment. Further, the Department argues that it did not err in denying the

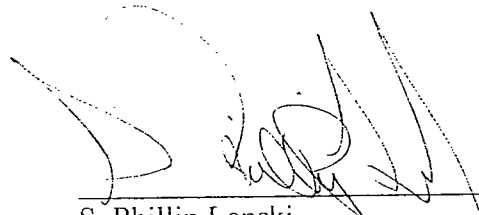
Appellant's request for a hearing five years after the initial determination of ineligibility because the request was made after ninety (90) days.

In accordance with 21 U.S.C § 862(a)(2) individuals who were convicted of a drug related felony after August 22, 1996 are ineligible to receive SNAP benefits. On October 12, 2004, the Appellant pled guilty to Possession of Crack-First in violation of S.C. Code § 44-53-375(A), which at the time of the Appellant's conviction was a felony. Subsequently, effective June 7, 2005, the crime defined by S.C. Code § 44-53-375(A) became a misdemeanor. In 2001, the Appellant applied for and started to receive SNAP benefits from November 2011 through March 2013. In 2013, the Department became aware of the Appellant's ineligibility to receive SNAP benefits due to his felony drug conviction. The Department terminated his benefits, and on December 11, 2013, made a demand for repayment. The Appellant failed to request a fair hearing within 90 days of receiving the overpayment demand letter. Substantial evidence supports the Department's decision in this matter. Furthermore, the Appellant's arguments do not provide a basis upon which the court may reverse the Department's determination that he was ineligible to receive SNAP benefits.

**IT IS THEREFORE ORDERED** that the Department's Motions to Amend the ROA and to File Brief Late are **GRANTED**.

**IT IS FURTHER ORDERED** that the Department's decision is **AFFIRMED**.<sup>1</sup>

**AND IT IS SO ORDERED.**



S. Phillip Lenski  
Administrative Law Judge

September 20, 2019  
Columbia, South Carolina

<sup>1</sup> Numerous motions were filed in this matter. All motions not specifically addressed in this Order are deemed denied.

**CERTIFICATE OF SERVICE**

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Erika S. Easler  
Judicial Law Clerk

September 20, 2019  
Columbia, South Carolina

FILED

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