

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

██████████
Signature Confirmation

Client ID # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████, (the "Recipient") a Notice of Action ("NOA") advising him that he had been overpaid \$1,152.00 in Supplemental Nutrition Assistance Program ("SNAP") benefits and that he must repay the overpayment.

On ██████████, father and Conservator of the Recipient, (the "Appellant") requested an administrative hearing to contest the Department's determination that he must repay such benefits.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████.

On ██████████, the Appellant appeared for the hearing and the Department was not prepared. The Appellant and the Department agreed to reschedule the hearing.

On ██████████, OLCRAH issued a notice rescheduling the administrative hearing for ██████████.

On ██████████, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, the Appellant

Amanda Guillemette, Department's Representative, Hearing Liaison, Norwich
Regional Office
Maureen Foley-Roy, Hearing Officer

Note: the Applicant is institutionalized in a skilled nursing facility and was unable to attend the hearing.

STATEMENT OF THE ISSUE

The issues to be decided are whether the Department's determination that the Department overpaid the Appellant in SNAP benefits in the amount of \$1152 and that the Department must recoup the overpaid benefits is correct.

FINDINGS OF FACT

1. The Recipient is a disabled individual who was living with his aunt who was his previous conservator. He was receiving a SNAP benefit of \$192 per month. (Department's summary, Appellant's testimony, Exhibit 3: Transaction History)
2. On [REDACTED], the Recipient was admitted to [REDACTED], a skilled nursing facility. (Exhibit 2: Ascend Connecticut Date listing of admits and discharges)
3. The Recipient has been a resident of the facility continuously since his admission with the exception of a leaves of a few days at a time to go to his father's home. (Exhibit 2 and Appellant's testimony)
4. On [REDACTED], the Department received an application for Medicaid for Long Term care for the Recipient's stay in the facility. (Department's summary)
5. The Recipient receives three meals a day in the facility but it is not enough food for him because he has a high metabolism. (Appellant's testimony)
6. The Recipient's aunt and former conservator continued to purchase food using the Recipient's SNAP EBT card to supplement the meals he received at the facility. (Exhibit 3 and Appellant's testimony)

7. Upon receipt of the application for Long Term Care in a facility, the Department discontinued the Recipient's SNAP benefits. (Department representative's testimony)
8. On [REDACTED], the Department sent the Recipient a notice advising him that he had been overpaid \$192 in SNAP benefits each month from [REDACTED] through [REDACTED] for a total amount of \$1,152 and that he was responsible to repay those benefits. (Exhibit 1: Notice of Overpayment and Recoupment)
9. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which states that a decision must be reached and the household notified within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] [REDACTED]. Therefore, this decision is due not later than [REDACTED] and is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Commissioner of the Department of Social Services to administer the SNAP program in accordance with federal law.
2. Title 7 of the Code of Federal Regulations ("CFR") § 273.1(a)(7)(vi) provides that residents of an institution, with some exceptions, are ineligible to participate in the SNAP program as a separate household or member of any household, when the institution provides them with the majority of their meals (over 50% of three meals daily) as part of the institution's normal services.
3. "The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
4. Uniform Policy Manual ("UPM") § 3015.15 states that residents of institutions which provide more than 50% of three meals per day are not eligible to participate in the Food Stamp program, except for: individuals in federally subsidized housing for the elderly built either: under section 202 of the Housing Act of 1959; or under section 236 of the National Housing Act; narcotics addicts or alcoholics, together with their children, who reside in a facility or treatment center for the purpose of: drug treatment and rehabilitation; or alcohol treatment and rehabilitation; disabled or blind individuals receiving Social Security or SSI who live in a group living arrangement; women and children in battered women

shelters; homeless individuals staying in a shelter for the homeless on a temporary basis.

The Department correctly determined that the Recipient is not residing in a subsidized housing for the elderly, a drug or alcohol treatment facility a homeless shelter or a battered women's shelter.

The Department correctly determined that the Appellant is a resident of an institution that provides more than 50% of three meals a day.

The Department correctly determined that the Appellant is ineligible for SNAP benefits due to his institutional status.

5. Title 7 CFR § 273.13 (a) (1) provides for notice of adverse action and states that prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken. The notice of adverse action shall be considered timely if the advance notice period conforms to that period of time defined by the State agency as an adequate notice period for its public assistance caseload, provided that the period includes at least 10 days from the date the notice is mailed to the date upon which the action becomes effective. Also, if the adverse notice period ends on a weekend or holiday, and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the State agency shall consider the request timely received.
6. UPM § 1570.10 provides for notice requirements and states that in part that the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to discontinue, terminate, suspend or reduce benefits OR change the manner or form of payment for programs.

The Department was correct when it determined that there was no overpayment for ██████████ because the Recipient entered the facility on ██████████. The adverse action period would have expired on ██████████ 2018 and the Recipient's benefits had already been issued for that month.

7. Title 7 § 273.18(a) (1) (i) of the Code of Federal Regulations ("CFR") provides that a recipient claim is an amount owed because of benefits that are overpaid.
8. Uniform Policy Manual ("UPM") § 7045.15 A provides for the computation of Food Stamp Overpayments and speaks to the general description of the process. The Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount the assistance unit should have received during that period.
9. Title 7 CFR § 273.18 (c)(1) (A) and (C) provide that the actual steps for calculating a claim of overpayment are to determine the correct amount of

benefits for each month that a household received an overpayment and subtract the correct amount from the amount actually received.

10. The following chart reflects the calculation of overpayments:

Month	Benefit Issued	Correct Benefit	Overpayment
██████████	\$192	\$0	\$192
██████████	\$192	\$0	\$192
██████████	\$192	\$0	\$192
██████████	\$192	\$0	\$192
██████████	\$192	\$0	\$192
██████████	\$192	\$0	\$192

11. The total overpayment is \$1152.

12. Title 7 § 273.18 (a)(2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.

13. Title 7 CFR § 273.18(a)(1) (i) provides for claims against households and states that a recipient claim is an amount owed because of benefits that are overpaid.

14. UPM § 7045.05 A 1 provides that the Department recoups from the assistance unit that received the overpayment.

The Department is correct that the Recipient was overpaid \$1152 in SNAP benefits for the period from ██████████ through ██████████ and that he must repay such benefits.

DISCUSSION

The regulations clearly state that a resident of a skilled nursing facility, where meals are provided is ineligible to receive SNAP benefits. There are no provisions in the regulation for an exception to allow for supplemental food.

DECISION

The Appellant's appeal is **DENIED**.

Maureen Foley-Roy

Maureen Foley-Roy,
Hearing Officer

CC: Tyler Nardine, Cheryl Stuart Operations Managers
Amanda Guillemette, DSS Hearing Liaison, Norwich
Ellen Croll-Weisner, DSS, New Haven

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. 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, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. 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 the Commissioner's 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 appellant resides.