

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

██████████ 2019
Signature confirmation

Case: ██████████
Client: ██████████
Request: 143373

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the “Department”) issued a *Notice of Overpayment and Recoupment* to ██████████ (the “Appellant”) seeking recovery of \$1,147.00 in over-issued Supplemental Nutrition Assistance Program (“SNAP”) benefits.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████, 2019 postmarked hearing request.

On ██████████ 2019, the OLCRAH issued a notice to the Appellant, scheduling an administrative hearing for ██████████ 2019.

On ██████████ 2019, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
Eleana Toletti, Department’s representative
Eva Tar, Hearing Officer

The hearing record closed for evidence and comment on ██████████ 2019.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined that \$1,147.00 in SNAP benefits that had been issued to the Appellant from [REDACTED] 2018 through [REDACTED] 2018 were subject to recovery as an overpayment.

FINDINGS OF FACT

1. The Appellant received SNAP benefits for her household. (Department's Exhibit 1)(Department's Exhibit 2)(Department's Exhibit 4)
2. [REDACTED] (dob [REDACTED]) is the Appellant's son. (Department's Exhibit 1)
3. The Appellant's son is a member of the Appellant's SNAP household. (Department's Exhibit 1)
4. In [REDACTED] 2017, the Appellant's son graduated high school. (Department's Exhibit 1)
5. In [REDACTED] 2018, the Appellant remained an active employee at [REDACTED] [REDACTED] (Appellant's Exhibit A)
6. On [REDACTED] 2018, the Appellant stopped taking on any new clients through the employer as of [REDACTED] 2018. (Appellant's Exhibit A)
7. The hearing record is unclear as to whether the Appellant received wages in the period from [REDACTED] 2018 through [REDACTED] 2018.
8. In [REDACTED] 2018, the Department was aware that the Appellant's son was employed. (Appellant's Exhibit A)
9. On [REDACTED] 2019, the Department issued a *Notice of Overpayment and Recoupment* to the Appellant seeking recovery of \$1,147.00 in over-issued SNAP benefits from [REDACTED] 2018 through [REDACTED], 2018. (Department's Exhibit 6)
10. The Department's calculation of the \$1,147.00 SNAP overpayment included an estimate of the Appellant's biweekly wages and the Appellant's son's verified weekly wages in the period from [REDACTED] 2018 through [REDACTED] 2018. (Department's Exhibit 4)(Department's Exhibit 5)(Department's Exhibit 7)
11. Title 7, Code of Federal Regulations ("C.F.R.") 273.15 (c) provides that within 60 days of receipt of a request for a SNAP fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision. As the OLCRAH received the Appellant's mailed hearing request on [REDACTED] 2019, this final decision initially was not due until [REDACTED] 2019.

However, at the Appellant's request, the hearing record did not close until [REDACTED] 2019 for the admission of evidence and comment. As this four-day delay in the close of the hearing record, this final decision was not due until [REDACTED] 2019. This decision is timely.

CONCLUSIONS OF LAW

1. Section 18b-2 of the Connecticut General Statutes in part 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.
2. "The commissioner shall make periodic investigations to determine eligibility and may, at any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the ... supplemental nutrition assistance program...." Conn. Gen. Stat. § 17b-80 (a).

The Department had the authority under Section 17b-80 (a) of the Connecticut General Statutes to review and take actions with respect to the Appellant's SNAP case.

3. "*Definition of income.* Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section. (1) Earned income shall include: (i) All wages and salaries of an employee." 7 C.F.R. § 273.9 (b)(1)(i).

"Only the following items shall be excluded from household income and no other income shall be excluded: ... (7) The earned income ... of any household member who is under age 18, who is an elementary or secondary school student, and who lives with a natural, adoptive, or stepparent or under the parental control of a household member other than a parent...." 7 C.F.R. § 273.9 (c)(7).

With respect to the SNAP, once the Appellant's son turned 18 years old, the Appellant's son's wages are included as household income for the purposes of determining the amount of the Appellant's household's SNAP award.

4. "*Overissuance* means the amount by which coupons issued to a household exceeds the amount it was eligible to receive." 7 C.F.R. § 271.2.

Title 7, Code of Federal Regulations, Section 271.2 (c)(1)(ii) provides the specific steps for calculating the claim amount for claims not related to trafficking. This Section provides:

The actual steps for calculating a claim are you [the State agency]: (A) *determine the correct amount of benefits for each month that a household received an overpayment*; (B) do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim unless the claim is an AE

[administrative error] claim, then apply the earned income deduction; (C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment, unless the answer is zero or negative then dispose of the claim referral; (D) reduce the overpayment amount by an EBT [electronic benefit transfers] benefits expunged from the household's EBT benefit account in accordance with your [the State agency's] own procedures. The difference is the amount of the claim, unless you are not aware of any expunged benefits and then the amount of the overpayment calculated in paragraph (c)(1)(ii)(C) of this section is the amount of the claim.

7 C.F.R. § 273.18 (c)(1)(ii). (emphasis added.)

"A recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked...." 7 C.F.R. § 273.18 (a)(1).

"If a beneficiary of assistance under the ... 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 (1) shall immediately initiate recoupment action...." Conn. Gen. Stat. § 17b-88.

The Department incorrectly determined that the amount of the Appellant's SNAP overpayment from ██████████ 2018 through ██████████ 2018, as the Department did not verify the Appellant's exact gross wages in the relevant period.

DISCUSSION

The Department's \$1,147.00 SNAP overpayment calculation assumes that the Appellant continued to be employed and receive wages from ██████████ 2018 through ██████████, 2018 while adding in the Appellant's now-adult son's wages into that same period. The Appellant maintains that ██████████ 2018 was her final day of employment and that her wages should not be part of the SNAP overpayment calculation.

The Appellant submitted a ██████████ 2018 correspondence from her employer that stated that the Appellant "remains an employee at ██████████. However, until further notice, she will no longer be taking on any new clients. The last day [the Appellant] worked for us was ██████████ 2018."

The ██████████ 2018 correspondence is both remote in time and ambiguous. It is unclear from the correspondence as to whether the Appellant continued to maintain her existing clients. ██████████ 2018 may have been the Appellant's last day of employment with ██████████ or it may be that the Appellant started accepting new clients with that employer subsequent to ██████████ 2018.

As the information on the letter is questionable, the Department must take steps to verify the Appellant's employment and wages, if any, in the period from ██████████ 2018

through [REDACTED] 2018 through collateral contact with the employer in order to correctly calculate the overpayment.

DECISION

The issue of this hearing is REMANDED to the Department.

ORDER

1. The Department will remove the \$1,147.00 SNAP overpayment for the period of [REDACTED] 2018 through [REDACTED] 2018.
2. The Department will contact [REDACTED] to verify whether the Appellant received wages in the period from [REDACTED] 2018 through [REDACTED] 2018 or if her last day of employment was [REDACTED] 2018.
 - If the Appellant has not been employed since [REDACTED] 2018, the Department will remove the Appellant's wages from its SNAP calculation for each month in the relevant period.
 - If the Appellant received wages in the relevant period, the Department will update its records to use the exact (gross) wages the Appellant received in each of the SNAP service months.
3. The Department will update and recalculate the SNAP overpayment, if any.
4. Within 21 calendar days of the date of this decision, or [REDACTED] 2019, documentation of compliance with this order is due to the undersigned.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

cc: Brian Spell, DSS-Middletown
Brian Sexton, DSS-Middletown

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.