

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

██████████ 2019  
Signature Confirmation

██████████  
Hearing Request # 143611

NOTICE OF DECISION  
PARTY

██████████  
PROCEDURAL BACKGROUND

██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") advising her of an overpayment with regards to her Supplemental Nutrition Assistance Program ("SNAP") benefits issued from ██████████ 2018 through ██████████ 2018 in the amount of \$1305.00 and advising her that she must repay the overpayment.

██████████ 2019, the Appellant requested an administrative hearing to contest the Department's decision to recoup such benefits.

██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████, 2019.

██████████ 2019, in accordance with sections 17b-60, 17b-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:

██████████, Appellant  
Jerrett Wyant, Department's Representative  
Veronica King, Hearing Officer

The record remained open for submission of additional requested information from the Appellant and the Department. Exhibits were received. The record closed on ██████████ 2019.

**STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly determined that the Appellant was overpaid in SNAP benefits and is subject to recoupment.

**FINDINGS OF FACT**

1. [REDACTED] 2018, the Department received a W-1E Application for Benefits form ("W-1E"). The Appellant did not respond to the question regarding if she or anyone on the household received cash, medical or food help from another state in the last 90 days. (Exhibit 4: W-1E and Hearing Record)
2. [REDACTED], 2018, the Department granted SNAP benefits for the Appellant and her minor child. (Exhibit 3: Benefit Issuance Search screens)
3. [REDACTED] 2019, the Appellant attended a face a face interview with the Department's worker. The Appellant reported that she is living at Umbrella domestic violence shelter. The Department verified the information. The Appellant testified that she had to leave unexpectedly and that she has a restraining order against her husband. (Exhibit 11: Case Notes screen prints, Appellant's Testimony, and Hearing Record)
4. [REDACTED], 2019, the Appellant informed that she received benefits in another state with her husband and child. The Department's worker sent a fax to the MA Department of Transitional Assistance to verify out of state benefits status. (Exhibit 11, Appellant's Testimony and Hearing Record)
5. [REDACTED], 2018, the Department received verification that the Appellant was receiving SNAP benefits in MA effective [REDACTED], 2018, and that her SNAP case was active. (Exhibit 5: Fax from MA, Exhibit 11 and Hearing Record)
6. The Appellant received the following SNAP benefits:

[REDACTED]	2018	\$246.00
[REDACTED]	2018	\$353.00
[REDACTED]	2018	\$353.00
[REDACTED]	2018	\$353.00

(Exhibit 3)

7. [REDACTED], 2018, the Department issued notices of actions to the Appellant notifying her that she was overpaid in SNAP benefits or the months of [REDACTED] 2018 \$246.00, [REDACTED] 2018 \$353.00, [REDACTED] 2018 \$353.00, and [REDACTED] 2018 \$353.00 and, she must repay. (Exhibit 8: Notices of Action letters)

8. The Department determined that \$70.00 had been repaid or offset in regards to the SNAP overpayment of benefits. (Exhibit 11)
9. [REDACTED], 2019, the Department issued an NOA to the Appellant advising that she had been overpaid by \$1305.00 in SNAP benefits for the months of [REDACTED] 2018 through [REDACTED] 2018 and she must repay the overpayment. The Notice stated that she must repay \$1235.00. (Exhibit 9: NOA, [REDACTED]/19)
10. The Department determined that the Appellant as eligible for \$0 in SNAP benefits on [REDACTED] 2018 through [REDACTED] 2018, because she was a member of an active SNAP household in another state. (Exhibit 9, Department's Representative's Testimony and Hearing Record)
11. 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 requested for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. Therefore, this decision is due not later than [REDACTED], 2019, 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. Section 17b-88 of the Connecticut General Statutes, authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayments and take such other action as conforms to federal regulations, including, but not limited, conducting administrative disqualification hearings.
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 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 2017 Conn. 601, 573 A.2d 712 (1990)).
4. Title 7 Code of Federal Regulation ("CFR") § 273.3 (a) states that A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in §271.2 of this chapter) or office within the State. No individual may participate as a member of more than one household or in more than one project area, in any month, unless an individual is a resident of a shelter for battered women and children as defined in §271.2 and was a member of a household containing the person who had abused him or her. Residents of shelters for battered women and children shall be handled in accordance with §273.11(g).

The State agency shall not impose any durational residency requirements. The State agency shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the State or project area. Persons in a project area solely for vacation purposes shall not be considered residents.

5. The Department correctly granted SNAP benefits for the Appellant and her child because she was a resident of a shelter for battered women and children.
6. Title 7 of CFR § 273.11 (g) (1) Prior to certifying its residents under this paragraph, the State agency shall determine that the shelter for battered women and children meets the definition in §271.2 and document the basis of this determination. Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition and the State agency is not required to make any further determination. The State agency may choose to require local project area offices to maintain a list of shelters meeting the definition to facilitate prompt certification of eligible residents following the special procedures outlined below. (2) Many shelter residents have recently left a household containing the person who has abused them. Their former household may be certified for participation in the Program, and its certification may be based on a household size that includes the women and children who have just left. Shelter residents who are included in such certified households may nevertheless apply for and (if otherwise eligible) participate in the Program as separate households if such certified household which includes them is the household containing the person who subjected them to abuse. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month. (3) Shelter residents who apply as separate households shall be certified solely on the basis of their income and resources and the expenses for which they are responsible. They shall be certified without regard to the income, resources, and expenses of their former household. Jointly held resources shall be considered inaccessible in accordance with §273.8. Room payments to the shelter shall be considered as shelter expenses. (4) Any shelter residents eligible for expedited service shall be handled in accordance with §273.2(i). (5) State agencies must take prompt action to ensure that the former household's eligibility or allotment reflects the change in the household's composition. Such action must include acting on the reported change in accordance with §273.12 or §273.21, as appropriate, by issuing a notice of adverse action in accordance with §273.13.
7. The Department correctly took prompt action and reported to MA Department of Transitional Assistance that the Appellant was residing in CT.
8. Title 7 CFR § 273.18 (c)(1)(A) and (C) provides 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.

9. UPM § 7000.01 (A) provides definition of an overpayment and states that an overpayment is the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount to which the unit is properly entitled.
10. The Department incorrectly determined that the Appellant had an overpayment of SNAP benefits for the months of [REDACTED] 2018 through [REDACTED] 2018.
11. Title 7 of the 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.
12. UPM § 7045.05 (A) provides the Department recoups from the assistance unit which received the overpayment.
13. The Department incorrectly determined that the Appellant is liable to repay \$1235.00 in overpaid SNAP benefits that she received for the months of [REDACTED] 2018 through [REDACTED] 2018.

### DISCUSSION

While regulations are clear regarding participation in an SNAP household as a member of more than one household or in more than one state, in any month, there are exceptional circumstances that allow an individual to receive SNAP benefits an additional allotment as a separate household. The evidence indicates that the Appellant was residing at a shelter for battered women and children when she applied for SNAP benefits on [REDACTED] 2018, and that she had recently left a household containing the person who has abused her, therefore she was eligible to receive SNAP benefits as a member of more than one household or in more than one state.

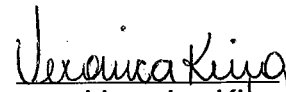
The Department incorrectly determined that the Appellant was overpaid SNAP benefits in [REDACTED] 2018 through [REDACTED] 2018 because she was active in another SNAP household in another state. Regulations stated that the Department recoups when an overpayment occurs and in this instance, the Appellant was eligible to receive SNAP benefits in Connecticut regardless of her benefits in MA, therefore, the SNAP benefits payments from [REDACTED] 2018 through [REDACTED] 2018 are not subject to recoupment.

**DECISION**

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

**ORDER**

1. The Department shall remove the \$1235.00 overpayment.
2. The Department shall stop any billing to collect such overpayment.
3. Compliance with this order is due back to the undersigned by [REDACTED] 2019.

  
Veronica King  
Hearing Officer

CC: Patricia Ostroski, Operations Manager, New Britain Regional Office  
Jerrett Wyant, Fair Hearing Liaison, New Britain Regional Office

### **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 060105-3725.

### **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 06105-3725. 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 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.