

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

Client ID # ██████████
Request # 145251

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") proposing to recoup an overpayment of her Supplemental Nutrition Assistance Program ("SNAP") benefit from ██████████ 2018 to ██████████, 2018 in the amount of \$2008.00.

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

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

On ██████████, 2019, the Appellant requested a continuance of the hearing, which was granted.

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On ██████████ 2019, 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:

██████████, Appellant
Mary Beth Mark, Department Representative
Almelinda McLeod, Hearing Officer

The hearing record was held open for the submission of additional evidence. On ██████████ 2019, the hearing record was closed.

The hearing record was re-opened on ██████████ 2019, for clarification of the record from the Department and response from the Appellant. On ██████████ 2019, the hearing record closed. There was no further response from the Appellant.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's determination that the Appellant was overpaid in SNAP benefits and therefore subject to the recoupment of such benefits was correct.

FINDINGS OF FACT

1. The Appellant had been active on the Supplemental Nutritional Assistance Program ("SNAP") with her two children. This is a household of three. (Hearing record)
2. On ██████████, 2018, the Appellant started a job with ██████████ ██████████ (Hearing summary)
3. The Appellant reported this employment to the Department in ██████████ 2018, the same month she started this employment. (Appellants' testimony)
4. On ██████████ 2018, the Appellants' employment with ██████████ ██████████ along with a wage stub was reported on the Periodic Report Form ("PRF"). (Hearing summary)
5. On or after ██████████ 2018, the Department did not update the Appellant's record to show income from her employment. (Hearing summary)
6. On ██████████, 2018, the wage stub received on ██████████ 2018, was discovered by the Department. (Hearing summary)

7. On [REDACTED] 2018, the Department updated the Appellants' income from [REDACTED] 2018, going forward reducing the SNAP benefit and creating an overpayment of \$2008.00 for the months of [REDACTED] 2018 to [REDACTED] 2018. No further action was taken on this benefit error group ("Beg"). (Hearing Summary, Exhibit 5, Case Notes)
8. On [REDACTED] 2019, the Department's Claims unit researched the overpayment and noted the BEG was compromised by \$1,305.00 and reduced the overpayment to \$703.00. (Department's testimony & Exhibit 5, Case Notes)
9. On [REDACTED] 2019, the Department issued a Notification of Overpayment and Recoupment to the Appellant indicating an overpayment of SNAP benefits from [REDACTED] 2018 to [REDACTED] 2018 in the amount of \$2008 due by Agency error and that the Appellant must repay \$703.00. The notice indicated the Appellant received \$504.00 in the months of [REDACTED] and [REDACTED] 2018 and received \$505.00 for months [REDACTED] and [REDACTED] 2018. (Exhibit 6, NOA)
10. On [REDACTED] 2019, the Department determined that the Appellant was eligible for \$100.00 for the months of [REDACTED], [REDACTED] and [REDACTED] 2018 and \$107.00 for the months of [REDACTED] and [REDACTED] 2018. (Exhibit 6)
11. The Appellant received and cashed the following SNAP benefits.

For the Month:	Date Issued on:	Amount deposited:	Transactions:
[REDACTED] 2018	[REDACTED] 29, 2019	\$504.00	SNAP purchases [REDACTED] 2018
[REDACTED] 2018	[REDACTED], 2019	\$504.00	SNAP purchases [REDACTED] 2018
[REDACTED] 2018	[REDACTED], 2019	\$504.00	SNAP purchases [REDACTED] 2018
[REDACTED] 2018	[REDACTED] 2019	\$505.00	SNAP purchase [REDACTED] 2018
[REDACTED] 2018	[REDACTED] 2019	\$505.00	SNAP purchase [REDACTED] 2018

(Exhibits 7, Benefit Issuance, Exhibit 8, EBT Transaction History)

12. On [REDACTED] 2019, a subsequent e-mail from the Department's claims unit clarified that effective [REDACTED] 2007, a Departmental memorandum instituted a modification mandating the states provide a method of compromising (writing off) a portion of Food stamp overpayments, if it is determined the Appellant is unable to pay the overpayment within three years. (Hearing record, e-mail correspondence [REDACTED] 19)

13. The Department has re-calculated the overpayment in the following way to show the Appellant's ability to pay within 3 years as $\$19.00 \times 36 \text{ months} = \684.00 . (Hearing record, e-mail correspondence [REDACTED] 19)
14. 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], 2019, therefore, this decision is due not later than [REDACTED] 2019. However, the hearing record, which had been anticipated to close on [REDACTED], 2019, did not close because the Appellant requested to re-schedule the administrative hearing on two occasions. Because of this [REDACTED] day delay in the close of the hearing record, this final decision is not due until [REDACTED] 2019.

CONCLUSIONS OF LAW

1. Section 17b-2 (7) of the Connecticut General Statutes, provides the Department of Social Services is designated as the state agency for the administration of the Supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Title 7 of the Code of Federal Regulations ("CFR") § 273.12(a)(5)(v) provides in part that the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a) (1) of this section.
3. Program Information Bulletin 08:06 provides that DSS has elected an option, now permitted as a result of the recently enacted Food and Nutrition Act of 2008, that all SNAP assistance units are subject to Simplified Reporting.
4. Program Information Bulletin 08:06 outlines the requirement of Simplified Reporting and provides in part that as of [REDACTED] 2009, the SNAP household is required to report:
 - (1) when the household's total gross income exceeds 130% of the Federal Poverty Level ("FPL") for the household size that existed at the last certification or the last reported change in household composition or
 - (2) when the household moves or
 - (3) when a SNAP recipient who is subject to the work requirements reduces his or her hours of work to less than the required 80 hours per month.

There are no other mandatory reporting requirements for households subject to simplified reporting. However, if the household voluntarily reports a change the agency must take action on that change. The action to be taken will depend upon whether the change will result in an increase or decrease in benefits. (Emphasis added)

Simplified reporting food stamp households must report mandatory changes by the 10th day of the month following the month the change occurred.

The Appellant correctly reported the employment with [REDACTED] in [REDACTED] 2018.

130% of the FPL for a household of three is \$2252.00.

5. 7 CFR § 273.18 (b) provides for the types of claims: There are three types of claims: 1.) Intentional Program Violation (“IPV”) – is any claim for an overpayment or trafficking resulting from an individual committing an IPV. 2.) Inadvertent household error (“IHE”) is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household and 3.) Agency error (“AE”) is any claim for an overpayment caused by an action or failure to take action by the State agency.
6. The Department’s Uniform Policy Manual (“UPM”) is the equivalent of 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)).
7. UPM § 7005.10 (A) (B) (2) (4) provides in part that the Department classifies errors as agency, recipient or provider caused. Agency errors which cause overpayments include but are not limited to: incorrectly computing the assistance unit’s income or need; and making a data entry error or other processing error.
8. **The Department failed to take action to update the Appellant’s record to show the new job with [REDACTED] [REDACTED] [REDACTED] when the Appellant reported it.**
9. **The Department correctly determined the SNAP overpayment was an agency error.**
10. Title 7 CFR § 273.18 (a) provides in part a recipient claim is an amount owed because of benefits that are overpaid. The State agency must establish and collect any claim by following these regulations. The State Agency must develop a plan for establishing and collecting claims.

11. UPM § 7005.15 (A) provides that the Department computes the amount of error by comparing the amount of benefits the assistance unit should have received to the amount of benefits the assistance unit actually received for a particular month or series of months.
12. UPM § 7045.15 pertain to overpayments in the SNAP program and states in part:
 - (A) 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.
 - (B) Benefits due the Assistance Unit. The Department follows the policy outlined in Sections 5500 and 6000 to compute the amount of benefits the assistance unit should have received. 1. The Department first evaluates the assistance unit's prospective eligibility for the month. 2. The Department next evaluates the correctness of the Food Stamp allotment received in that month by using the budgeting method in effect at the time the overpayment occurred.
13. 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.
14. UPM § 7045.10(A) provides that the Department recoups an overpayment or that part of an overpayment that occurs within the following periods. 1. The Department recoups an overpayment caused by administrative error if the overpayment occurred no earlier than 12 months prior to the month the Department discovers it.
15. **The Department correctly calculated the benefits issued and used by the Appellant from [REDACTED] 2018 to [REDACTED] 2018.**
16. **The Department correctly determined the amount of benefits the Appellant should have received from [REDACTED] 2018 to [REDACTED] 2018.**
17. **The Department correctly determined that the overpayment is subject to recoupment because the administrative error overpayment occurred within 12 months.**
18. CFR § 273.18 (e) pertains to the applicability of initiating collection action and managing claims and provides that the State agencies must begin

collection action on all claims unless the conditions under paragraph (e) (2) of this section apply.

19. CFR § 273.18 (e) (2) provides that a State agency may opt not to establish and subsequently collect an overpayment that is not cost-effective. The State Agencies' cost-effectiveness policy dictates that the agency may opt not to establish a claim if it is determined that the claim referral is not cost-effective to pursue.
20. CFR § 273.18 (e) (7) pertains to compromising claims and provides that as a state agency, you may compromise a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years.
21. UPM § 6010.10 B 1 provides that the retrospective method is used to calculate benefits in all months after the initial month of eligibility.
22. **The Department correctly determined that the initial administrative SNAP overpayment was \$2008.00.**
23. **The Department incorrectly determined the Appellant's initial ability to pay the overpayment was \$708.00 because \$1305.00 was compromised.**
24. **Subsequently, the Department correctly re-calculated the overpayment and further reduced the overpayment by \$19.00 to equal \$684.00 as the Appellant's ability to pay within 3 years.**
25. **The Department correctly determined the Appellant is subject to recoupment because she was overpaid in SNAP benefits from [REDACTED] 2018 to [REDACTED] 2018.**

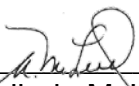
DISCUSSION

The hearing record is clear that the SNAP overpayment was caused because the Department failed to take action on reported changes; which as a result, caused the Appellant to continue to receive SNAP in the incorrect amount of \$504.00 for the months of [REDACTED], [REDACTED] and [REDACTED] 2018 and \$505.00 for the months of [REDACTED] and [REDACTED] 2018 as evidenced in the hearing record.

The regulations are clear in that all overpaid benefits must be repaid, regardless of the reason for the overpayment. It must be noted that subsequent to the administrative hearing, it was discovered that there was a mathematical error in computing the original overpayment and the Departments' claims unit further reduced the overpayment by \$19.00 and adjusted the overpayment to \$684.00 in accordance with regulations. The Department is upheld.

DECISION

The Appellant's appeal is denied.



Almelinda McLeod
Hearing Officer

CC: Tyler Nardine, SSOM Norwich
Cheryl Stuart, SSOM Norwich
Marybeth Mark, Fair Hearing Liaison, Norwich
Kristin Haggen, Fair Hearing Liaison, Norwich

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.