

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 #146805

CASE ID ██████████
CLIENT ID ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a "Notification of Overpayment and Recoupment" stating that the Appellant received an overpayment of benefits from ██████████ 2018 to ██████████, 2019 of \$1,536.00 under the Supplemental Nutrition Assistance Program ("SNAP") that she must repay, and provided the Appellant with options for repaying the overpayment.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's proposed recovery of overpaid SNAP benefits.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████ 2019 @ 2:00 PM.

On ██████████ 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 to address the Department's proposed recovery of overpaid SNAP benefits from the Appellant.

The following individuals were present at the hearing:

██████████, Appellant
██████████, Appellant's AREP/Witness
Wanda Santiago, Interpreter
Christopher Filek, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant's assistance unit received overpaid SNAP benefits for the period of [REDACTED] 2018 through [REDACTED] 2019 in the amount of \$1,536.00 that is subject to recovery.

POR FAVOR VEA LA COPIA INCLUIDA DE ESTA DECISIÓN EN ESPAÑOL.
PLEASE SEE THE ENCLOSED COPY OF THIS DECISION IN SPANISH.

FINDINGS OF FACT

1. The Appellant's assistance unit was granted SNAP benefits of \$192.00 per month, as a household consisting of one (1) eligible member residing in the community. (Appellant's testimony; Hearing Summary)
2. On [REDACTED] 2018, the Appellant was admitted to [REDACTED], which is a licensed nursing facility ("NF") for rehabilitative care. (Appellant's testimony; Hearing Summary; Dept.'s Exhibit #2: Ascend History)
3. On [REDACTED] 2018, Ascend Management Innovations, LLC ("Ascend"), the Department's subcontractor to administer level of care requests for NF care, approved the Appellant's stay at [REDACTED] for short term rehabilitative care. (Dept.'s Exhibit #2)
4. On [REDACTED] 2019, the Department received the Appellant's application for Medicaid payment of long term care ("LTC"). (Hearing Summary)
5. On [REDACTED] 2019, Ascend noted that the Appellant was discharged from the NF on [REDACTED] 2019. (Dept.'s Exhibit #2)
6. On [REDACTED] 2019, the Appellant was granted Medicaid coverage for LTC, effective [REDACTED] 2019. (Hearing Summary)
7. On [REDACTED], 2019, the Department discovered the error and discontinued the Appellant's SNAP benefits, effective [REDACTED] 2019. (See Facts # 1 to 6; Hearing Summary)
8. The Department determined that the Appellant's assistance unit erroneously received \$1,536.00 in SNAP benefits for the period of [REDACTED] 2018 through [REDACTED] 2019 that she should not have received, during her stay at [REDACTED] for short term rehabilitative care. (See Facts # 1 to 7; Hearing Summary)
9. The Department determined that the SNAP overpayment received by the Appellant's assistance unit for the period of [REDACTED] 2018 through [REDACTED] 2019 was caused by an Agency error. (Dept.'s Exhibit #1: [REDACTED]/19 Recoupment Notice)
10. The Department determined that the full amount of the overpayment in SNAP benefits received by the Appellant's assistance unit for the period of [REDACTED] 2018

through [REDACTED] 2019 is subject to recovery as allowed by policy. (Dept.'s Exhibit #1)

11. On [REDACTED] [REDACTED] 2019, the Department sent the Appellant a Notification of Overpayment and Recoupment informing her of an overpayment in SNAP benefits received by her assistance unit during the period of [REDACTED] 2018 through [REDACTED] [REDACTED] 2019 in the amount of \$1,536.00 that she must repay. (Appellant's testimony; Hearing Summary; Dept.'s Exhibit #1)

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), Section 273.1 provides the concept for determining eligible households.
3. Uniform Policy Manual (UPM), Section 1010.05 provides that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department.
4. UPM § 1010.05(A)(1) provides that the assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555).
5. UPM § 3015.15 provides 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:
 - A. individuals in federally subsidized housing for the elderly built either:
 1. under section 202 of the Housing Act of 1959; or
 2. under section 236 of the National Housing Act;
 - B. narcotics addicts or alcoholics, together with their children, who reside in a facility or treatment center for the purpose of:
 1. drug treatment and rehabilitation; or
 2. alcohol treatment and rehabilitation;
 - C. disabled or blind individuals receiving Social Security or SSI who live in a group living arrangement;
 - D. women and children in battered women shelters;

- E. homeless individuals staying in a shelter for the homeless on a temporary basis.
- 6. The Department correctly determined that on [REDACTED] 2018, the Appellant became a resident of a NF that provided more than 50% of her three meals per day.
- 7. The Department correctly determined that the Appellant's assistance unit was ineligible for the SNAP benefits received during the period of [REDACTED] 2018 through [REDACTED] 2019, based on her residing in a NF.
- 8. The Department correctly determined that the Appellant's assistance unit received overpaid SNAP benefits for the period of [REDACTED] 2018 through [REDACTED] 2019 in the amount \$1,536.00, based on her living arrangement.
- 9. UPM Section 7005.10(A) provides, in part the policy regarding benefit error.
 - 1. The Department classifies errors as agency, recipient or provider caused.
 - 2. If an overpayment is caused by the assistance unit, the Department makes a preliminary determination regarding whether the error was intentional or unintentional, and whether to pursue a legal action against the assistance unit on fraud charges.
- 10. UPM Section 7005.10(B) provides that agency errors which cause overpayments include, but are not limited to:
 - 1. failing to take timely action on a change reported by the assistance unit;
 - 2. incorrectly computing the assistance unit's income or need;
 - 3. failing to insure that the assistance unit fulfilled certain technical or procedural eligibility requirements;
 - 4. making a data entry error or other processing error;
 - 5. failing to adjust the assistance unit's Food Stamp allotment, when appropriate, when altering the unit's Public Assistance benefit level;
 - 6. continuing to provide the assistance unit its Food Stamp allotment after the unit's certification period expires, without conducting a redetermination of eligibility;
 - 7. incorrectly issuing to the assistance unit duplicate food stamp benefits which
- 11. The Department correctly determined that the overpayment was due to an Agency error.
- 12. UPM Section 7005.15(A) provides that the Department computes the amount of the error by comparing the amount of the benefits the assistance unit should have

received to the amount of the benefits the assistance unit actually did receive for a particular month or series of months.

13. The Department correctly computed the amount in overpaid SNAP benefits received by the Appellant's assistance unit for the period of [REDACTED] 2018 through [REDACTED], 2019 as \$1,536.00.
14. UPM Section 7045.05(A)(1) provides that for the food stamp program, the Department recoups from the assistance unit which received the overpayment.
15. UPM Section 7045.10(A) provides that the Department recoups an overpayment or that part of an overpayment which occurs within the following time 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.
16. The \$1,536.00 in overpaid SNAP benefits received by the Appellant's assistance unit during the period of [REDACTED] 2018 through [REDACTED], 2019 is subject to recovery, as prescribed by policy.
17. The Department correctly determined that the Appellant must repay the overpayment in SNAP benefits received for the months of [REDACTED] 2018 through [REDACTED], 2019.
18. The Department correctly proposed to recover the overpaid SNAP benefits from the Appellant.

DECISION

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



Hernold C. Linton
Hearing Officer

Pc: **Brian Sexton**, Social Service Operations Manager,
DSS, R.O. # 50, Middletown

Fair Hearing Liaisons, DSS, R.O. # 50, 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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

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. 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.