

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████, 2020
Signature Confirmation

Client ID # ██████████
Request # 150184

NOTICE OF DECISION

PARTY

██████████
██████████ pt. ██████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services sent ██████████ a notice denying replacement of electronic benefits from the Supplemental Nutrition Assistance Program.

On ██████████, 2019, the Appellant requested an administrative hearing to request the replacement of stolen benefits from her Electronic Benefit Transfer (“EBT”) account in ██████████ of 2019.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings, (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2020.

On ██████████ 2020, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184 of the Connecticut General Statutes, inclusive, the Department held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant
Rose Montinat, DSS Fair Hearing Liaison, Hartford
Kristen Krawetzky, Department’s Associate Fiscal Administrative Officer
Miriam Ray, Interpreter, ITI Translates
Maureen Foley-Roy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant is entitled to replacement of SNAP benefits which were deposited to her EBT account and which the Appellant alleges were subsequently stolen.

FINDINGS OF FACT

1. The Appellant has been a recipient of SNAP benefits since [REDACTED] and has never had a problem with her EBT account or accessing benefits. The Appellant's EBT card is always in her possession. (Appellant's testimony)
2. On [REDACTED] 2019, the Department deposited the Appellant's \$509 SNAP benefit for the month of December into her EBT account. (Exhibit 1: Recipient Transaction History)
3. Between [REDACTED] 2019 and [REDACTED] 2019, there were 59 calls made to the EBT customer service telephone line for a balance inquiry of the Appellant's EBT SNAP benefit account. (Exhibit 1)
4. On [REDACTED] 2019 and [REDACTED] 2019, the PIN number for the Appellant's EBT account was changed. (Exhibit 1)
5. When calling to change a PIN number, the caller must have the card number and the holder's date of birth and last four digits of the holder's Social Security number. (Department's Associate Fiscal Administrative Officer's testimony)
6. On [REDACTED] 2019, at 9:54 am, a food stamp purchase of \$95.97 was successfully debited from the Appellant's EBT SNAP account. (Exhibit 1)
7. On [REDACTED] 2019 at 7:10 pm, the Appellant made two attempts to complete a SNAP purchase of \$5.05 at the [REDACTED] in [REDACTED], Connecticut. The transactions were declined because of an invalid PIN number. (Exhibit 1 and Appellant's testimony)
8. On [REDACTED] 2019, the Appellant contacted EBT customer service to check her balance. She did not speak to an agent. (Exhibit 1 and Appellant's testimony)
9. On [REDACTED] 2019 at 11:24 am, a successful SNAP purchase was completed in the amount of \$203.85. (Exhibit 1)
10. On [REDACTED] 2019 at 11:52 am, a successful SNAP purchase was completed in the amount of \$143.28. (Exhibit 1)
11. On [REDACTED] 2019, the Appellant contacted EBT customer service and spoke to a representative to report that her EBT card information had been used by an

individual other than herself to access her benefits in two transactions on December 4, 2019. The customer service representative took no action to cancel the Appellant's EBT card. (Department's Associate Fiscal Administrative Officer's testimony)

12. On [REDACTED] 2019, at 12:55 am a successful SNAP purchase was completed in the amount of \$3.85. (Exhibit 1)
13. On [REDACTED] 2019, at 12:56 am a successful SNAP purchase was completed in the amount of \$62.05. (Exhibit 1)
14. On [REDACTED] 2019, the Appellant contacted EBT customer service once again to report that her card was being used by another individual. The EBT card was cancelled. (Exhibit 1)
15. The Appellant went to the merchant where her EBT transactions had taken place and saw videos of the transactions. She did not recognize the individuals who had conducted the transactions. (Appellant's testimony)
16. The Appellant has filed a police report but the police have told her that they will be unable to help her. (Appellant's testimony)
17. On [REDACTED], 2019, the Department issued a notice to the Appellant advising her that it would not be replacing benefits that she alleges were stolen from her account on [REDACTED] 2019. (Exhibit 3: Notice of [REDACTED] 2019)
18. On [REDACTED] 2019, the Department reviewed the transactions completed after the Appellant initially reported her card misused on [REDACTED] 2019 and is considering replacing the benefits in the transactions that occurred on [REDACTED] 2019. (Department's Associate Fiscal Administrative Officer's testimony)
19. 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. This decision is due not later than [REDACTED], 2020 and therefore is timely.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides that the Department of Social Services be 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”) § 273.17(a)(1) provides **the State agency shall restore to households benefits which were lost whenever the loss was caused by an error by the State agency or by an administrative disqualification for intentional Program violation which was subsequently reversed** as specified in paragraph (e) of this section, or if there is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits. (Emphasis added)
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. UPM § 6515 provides for benefit issuance. Cash and food stamp benefits deposited in an EBT account in a financial institution must be accessed through the use of Department issued debit cards.
5. UPM § 6530.05A 2 provides that the Department authorizes the replacement of EBT issued benefits that are considered lost or stolen.
6. UPM § 6530.20 A 3 provides that EBT issued cash and food stamp benefits are treated as stolen benefits if the cash and food stamp benefits are taken by someone other than the client or the client's authorized representative **between the time the Department's designee receives notice from a household regarding the need for card replacement and the time that the Department's designee deactivates the client's stolen or lost debit card.** (Emphasis added)
7. UPM § 6530.20 B 3 provides that the Department will not replace any recipient cash or food stamp benefits that have been correctly deposited into an EBT account in a financial institution. Such benefits are considered to have been properly received and are not subject to replacement except as provided in section A above or sections 6530.15, 6530.35 or 6530.40.
8. UPM § 6530.50 C 2 provides the conditions for the replacement of stolen foodstamps benefits and states that EBT issued Food Stamp benefits are treated as stolen benefits if the benefits are taken by someone other than the client or the client's authorized representative between the time the Department's designee receives notice from a household regarding the need for card replacement and the time that the Department's designee deactivates the client's stolen or lost debit card.
10. The Appellant reported the EBT card lost after the SNAP benefits in question were used for SNAP purchases on [REDACTED] 2019.
11. The Appellant is not entitled to replacement of her SNAP benefits used on [REDACTED] 2019 because the EBT card was not reported lost until after the SNAP benefits were used.


DISCUSSION

As the Appellant's SNAP benefits were stolen from her after the Department had correctly deposited them into her EBT account, the Department has no legal obligation to replace such benefits. There is no provision in the regulations for replacing benefits which were correctly deposited to an individual and then stolen.

The Department does replace benefits which were accessed after an individual contacts the Department to report stolen benefits and requests a deactivation of her EBT card. The Department is taking steps to replace benefits which were accessed after the Appellant reported the stolen benefits.

DECISION

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



Maureen Foley-Roy
Hearing Officer

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, law, and 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, if 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.