

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

██████████ 2020
Signature confirmation

Case: ██████████
Client: ██████████
Request: 149886

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 \$11,030.00 in overpaid Supplemental Nutrition Assistance Program (“SNAP”) benefits.

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

On ██████████, 2019, the OLCRAH scheduled an administrative hearing for ██████████, 2020.

On ██████████ 2020, 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
██████████, Appellant’s witness
Taneisha Hayes, Department’s representative
Eva Tar, Hearing Officer

The hearing record closed ██████████ 2020.

STATEMENT OF ISSUE

The Appellant objects to the Department's installment payment plan of \$110.00 per month to recoup the overpaid SNAP benefits.

FINDINGS OF FACT

1. From [REDACTED] 2018 through [REDACTED] 2019, the Department issued the Appellant's household \$1,030.00 per month in SNAP benefits. (Department's Exhibit 4)(Department's Exhibit 8)
2. The Appellant's household is comprised of the Appellant, the Appellant's witness, and their [REDACTED] children. (Appellant's testimony)
3. The Appellant and the Appellant's witness were employed. (Department's Exhibit 7)
4. The couple's gross monthly wages in the relevant period were as follows:

	Appellant's wages	Appellant's witness' wages
[REDACTED]	\$1,530.78	\$4,321.51
[REDACTED]	\$929.84	\$4,011.57
[REDACTED]	\$860.69	\$4,302.69
[REDACTED]	\$1,476.73	\$3,760.53
[REDACTED]	\$1,002.07	\$4,228.24
[REDACTED]	\$1,243.50	\$6,251.57
[REDACTED]	\$987.85	\$4,117.93
[REDACTED]	\$1,304.74	\$4,111.45
[REDACTED]	\$2,089.04	\$3,968.89
[REDACTED]	\$1,613.49	\$3,774.38
	\$13,038.73	\$42,848.76

(Department's Exhibit 7)

5. From [REDACTED] 2018 through [REDACTED] 2019, the Department did not incorporate the \$42,848.76 in wages of the Appellant's witness in its calculation of the SNAP award of the Appellant's household; the Department had coded the wages of the Appellant's witness as "work experience" rather than income. (Department's Exhibit 8)
6. On [REDACTED] 2019, the Department discovered its error. (Department's Exhibit 8)
7. On [REDACTED] 2019, the Department discontinued the Appellant's SNAP benefits effective [REDACTED] 2019. (Department's representative testimony)(Department's Exhibit 4)(Department's Exhibit 8)

8. On [REDACTED] 2019, the Department issued a *Notification of Overpayment and Recoupment* to the Appellant seeking recovery of \$11,030.00 in overpaid SNAP benefits, issued from [REDACTED] [REDACTED] 2018 through [REDACTED] [REDACTED] 2019. (Department's Exhibit 5)
9. The Appellant does not dispute her household received SNAP benefits in error. (Appellant's testimony)
10. The Appellant does not dispute that her household must reimburse the Department for the overpaid SNAP benefits. (Appellant's testimony)
11. The [REDACTED] 2019 *Notification of Overpayment and Recoupment* stated that since the Appellant's SNAP case had closed, the Appellant would have to make a lump sum payment or make minimum monthly payments of \$110.00. (Department's Exhibit 5)
12. The Appellant cannot pay a lump sum payment of \$11,030.00. (Appellant's testimony)
13. The Appellant objects to the Department's \$110.00 per month installment payment plan as unaffordable. (Appellant's testimony)
14. The Appellant can pay \$25.00 per month. (Appellant's testimony)
15. The Department included a *Repayment Form* with the [REDACTED] 2019 *Notification of Overpayment and Recoupment* for the Appellant to complete and return. The *Repayment Form's* Installment Payments option contained blank lines to allow the Appellant to designate a monthly payment amount. (Department's Exhibit 5)
16. The Department uses the information on a completed *Repayment Form* in order to set up an installment payment plan. (Department's representative testimony)
17. The Appellant did not complete and return the *Repayment Form* to the Department. (Appellant's testimony)
18. As of the date of this administrative hearing, the monthly installment payment amount had not been negotiated and finalized between the Department and the Appellant. (Hearing record)
19. 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 hearing request on [REDACTED] 2019, this final decision was not due until [REDACTED] [REDACTED] 2020. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-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.

“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).

Under Section 17b-80 (a) of the Connecticut General Statutes, the Department had the authority to investigate, modify, suspend, and/or discontinue the Appellant’s SNAP benefits to carry out the provisions of that program.

2. *“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).

The wages of the Appellant and her witness should have been included as household “income” in calculating the eligibility of the Appellant’s household to receive SNAP benefits.

The Department erred when it failed to incorporate the wages of the Appellant’s witness—a member of the Appellant’s SNAP household—as part of the household’s income in calculating the Appellant’s SNAP benefits.

3. 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:

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).

“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.

Due to administrative error, the Appellant’s household received SNAP benefits from [REDACTED] 2018 through [REDACTED] 2019 for which it was not eligible.

4. “If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The language to be used in this notice is left up to the State agency. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household.” 7 C.F.R. § 273.18 (e)(6)(ii).

An overpayment claim exists against the Appellant’s household.

5. “*Installment payments.* (i) You may accept installment payments made for a claim as part of a negotiated repayment agreement..” 7 C.F.R. § 273.18 (g)(5)(i).

“*Repayment agreements.* (i) Any repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments. (ii) The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.” 7 C.F.R. § 273.18 (e)(4).

The Department must be given the opportunity to review and/or negotiate further with the Appellant as to a potential installment payment plan.

DISCUSSION

Title 7, Code of Federal Regulations (“C.F.R.”) § 273.18 (g)(5)(i) permits the State to accept installment payments made by a former SNAP recipient as part of a *negotiated* repayment agreement to repay an overpayment.

At the time of the administrative hearing, the Appellant and the Department had not yet negotiated or finalized the amount of the Appellant’s monthly installment payment. The Appellant testified that she could afford to pay \$25.00 per month toward offsetting the \$11,030.00 overpayment, rather than the Department’s proposed \$110.00 per month installment payment plan.

The Department must be given the opportunity to evaluate, adopt, deny, or further negotiate the Appellant’s proposed \$25.00 per month installment payment plan.

DECISION

The Appellant's appeal is GRANTED in part. The Department must be given the opportunity to adopt or deny the Appellant's proposed \$25.00 per month installment payment plan.

ORDER

1. If it has not already done so, the Department will adopt, deny, or further negotiate the Appellant's proposed \$25.00 per month installment payment plan. The Department will notify the Appellant in writing of its decision.
2. 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: Taneisha Hayes, DSS-Hartford/Windsor
Jay Bartolomei, DSS-Hartford/Windsor
Musa Mohamud, DSS-Hartford/Windsor
Judy Williams, DSS-Hartford/Windsor
Jessica Carroll, DSS-Hartford/Windsor

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.