

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 # ██████████
Case ID # ██████████
Request # 150384

NOTICE OF DECISION
PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the “Department”) issued a Notification of Overpayment and Recoupment to ██████████ (the “Appellant”), indicating she had been overpaid in Supplemental Nutrition Assistance Program (“SNAP”) benefits from the Department of Social Services (the “Department”) and that she must repay the overpayment.

On ██████████, 2019, the Appellant requested an administrative to contest the Department’s decision to recover such benefits.

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:

██████████, the Appellant by phone
Christopher Filek, Departments representative
Scott Zuckerman, Hearing Officer

The hearing record remained open by the Appellant's request for the Department to submit additional information and allow her to respond to the information. The hearing record closed on [REDACTED] 2020.

A separate hearing decision will be issued to address whether the Department correctly determined the Appellant was overpaid in State Administered General Assistance ("SAGA") cash benefits and that the Department's recovery of such benefits is correct.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant was overpaid \$1,344.00 in SNAP benefits and that the Department must recover the overpaid benefits is correct.

FINDINGS OF FACT

1. The Appellant was certified for SNAP benefits as a household of one from [REDACTED] 2017 through [REDACTED], 2019. (Ex. 7: Federal SNAP Income test)
2. On [REDACTED], 2017, the Appellant received her first pay from employment at [REDACTED]. (Ex. 2: Wage stubs)
3. On [REDACTED] 2017, the Appellant provided her first two bi weekly wage stubs ([REDACTED]/17 \$1154.25 and [REDACTED] 17 \$1,165.79) and a letter from her employer verifying she works 37.50 hours per week at an hourly rate of \$15.39. (Appellant's testimony, Ex. 2: Wage stubs and Exhibit 3: Letter from [REDACTED]/17)
4. [REDACTED] 2017, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex. 8: Benefit Issuance Search)
5. On [REDACTED] 2017, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex. 8: Benefit Issuance Search)
6. On [REDACTED] 2017, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex. 8: Benefit Issuance Search)
7. On [REDACTED] 2017, the Appellant provided her renewal of eligibility form along with two bi weekly wage stubs from [REDACTED] [REDACTED] [REDACTED]: [REDACTED]/17 \$1,158.10 and [REDACTED] 17 \$1,154.26. (Exhibit 1: Case note dated [REDACTED]/18 and Exhibit 2: Wage stubs)
8. On [REDACTED] 2018, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex. 8: Benefit Issuance Search)

9. On [REDACTED] 2018, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex. 8: Benefit Issuance Search)
10. On [REDACTED] 2018, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex.8: Benefit Issuance Search)
11. On [REDACTED], 2018, the Department discontinued the Appellant's SNAP benefits effective [REDACTED] 2018. The Notice stated the monthly net income of your household is more than the limit for this program. (Ex. 5: Notice of Action, [REDACTED]/18)
12. On [REDACTED] 2018, the Department issued \$192.00 in SNAP benefits to the Appellant for a household of one. (Ex. 8: Benefit Issuance Search)
13. On [REDACTED] 2019, the Department sent the Appellant a Notification of Overpayment and Recoupment. The notice stated that the Appellant received an overpayment of SNAP benefits from [REDACTED] 2017 through [REDACTED], 2018 of \$1,344.00 due to an agency error. (Exhibit 6: Notification of Overpayment and Recoupment, [REDACTED]/19)
14. The Appellant worked 35 hours weekly at an hourly rate of \$15.39 for [REDACTED] [REDACTED] [REDACTED] for the months of [REDACTED] 2017 through [REDACTED] 2018. (Appellant's testimony)
15. 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], 2020. However, the hearing record remained open through [REDACTED] 2020, which caused a seven day delay. Because the seven day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2020, and is therefore timely.

CONCLUSIONS OF LAW

1. Section § 17b-2 of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. "The department's uniform policy manual 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*, 214 Conn. 601, 573 A.2d 712 (1990)).

3. Title 7 CFR § 273.10(c)(2)(i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

The Department correctly determined the Appellant's monthly gross income as \$2,319.19 (35 hours weekly x \$15.39 hourly = \$538.65 per week x 4.3 weeks = \$2,316.19 monthly).

4. Title 7 of the Code of Federal Regulations ("CFR") § 273.2 (j) (2) (E) (ii) provides the State agency, at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food Stamp Act of 2008: (A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.
5. Title 7 CFR § 273.9 (a) provides for income eligibility standards and states that participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP.
6. Title 7 of the CFR § 273.9 (a) provides that participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households, which contain an elderly or disabled member, shall meet the net income eligibility standards for the Food Stamp Program. Households, which do not contain an elderly or disabled member, shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2 (j) (2) or 273.2 (j) (4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the levels established in Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

The Department correctly determined that the Appellant's household must pass the gross income and net (applied) income tests.

7. Title 7 of the CFR § 273.12(a)(1) provides in part that monthly reporting households are required to report as provided in § 273.21. Quarterly reporting households are subject to the procedures as provided in paragraph (a)(4) of this section. Simplified reporting households are subject to the procedures as provided in paragraph (a)(5) of this section.

Title 7 of the CFR § 273.12(a)(5) provides the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section. The following requirements are applicable to simplified reporting systems: (i) *Included households*. The State agency may include any household certified for at least 4 months within a simplified reporting system. (ii) *Notification of simplified reporting requirement*. At the initial certification, recertification and when the State agency transfers the households to simplified reporting, the State agency shall provide the household with the following: (A) A written and oral explanation of how simplified reporting works; (B) For households required to submit a periodic report, a written and oral explanation of the reporting requirements including: (1) The additional changes that must be addressed in the periodic report and verified. (iii) *Periodic report*. (A) *Exempt households*. The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or have a disability with no earned income.

The Appellant's household is subject to simplified reporting requirements.

Title 7 of the CFR § 273.12(a)(5)(v) provides for *Reporting when gross income exceeds 130 percent of poverty*. A household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at §273.9(a)(1). The household shall use the monthly gross income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.

The Appellant correctly notified the Department of her change in earned income in a timely manner when her income exceeded 130% of the Federal Poverty Level of \$1287.00 in ██████████ 2017.

8. Under expanded eligibility, the SNAP gross income limit equals 185 percent of the federal poverty level, (FPL).
9. Effective ██████████ 2017, the FPL for a household of one equals \$12,060 / 12 months = \$1,005 (Federal Register: ██████████ 2017 [Volume 82, Number 19]).

10. The gross income limit for an assistance unit of one person in [REDACTED] 2017 is \$1860.00 (185% FPL)
11. The net (applied) income limit for an assistance unit of on person in [REDACTED] 2017 is \$1005.00 (100%FPL)

The Department correctly determined the Appellant's monthly gross income of \$2319.19 exceeded the SNAP gross income limit of \$1860.00 for an assistance unit of one person during the months of [REDACTED] 2017 through [REDACTED] 2018.

12. Title 7 of the 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

UPM § 7000.01 (A) provides the 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.

UPM § 7045.05 (A) provides the Department recoups from the assistance unit which received the overpayment.

UPM § 7045.05 (C) provides for the participation of the assistance unit in the recoupment process. 1. The Department allows the assistance unit to participate in the recoupment process by: a. discussing the cause and amount of the overpayment with the Department; and b. negotiating with the Department in establishing a recoupment plan.

The Department properly allowed the Appellant an opportunity to participate in the recoupment process.

13. Title 7 of the 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.

Title 7 of the CFR § 273.18 (b) provides for types of claims. There are three types of claims: 1. Intentional Program violation (IPV) claim any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16. 2. Inadvertent household error (IHE) claim any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. 3. Agency error (AE) claim any claim for an overpayment caused by an action or failure to take action by the State agency.

The SNAP overpayments are considered agency error in nature and must be repaid.

14. Title 7 CFR § 273.18 (c) (1)(i) provides for calculating the claim amount and provides that as a state agency , you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment. For an IPV claim, the claim must be calculated back to the month the act of IPV first occurred. For all claims,

don't include any amounts that occurred more than six years before you became aware of the overpayment.

15. 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.

The Department correctly determined that a SNAP overpayment occurred [REDACTED] 2017 through [REDACTED] 2018.

16. Title 7 of the CFR §273.18 (c)(1) (ii)(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.

Title 7 of the CFR §273.18 (e)(3)(iv)(E) provides that the State Agency must include language as to how the claim was calculated.

UPM §7045.15 (A) provides for the computation of Food Stamps Overpayments and speaks to the 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.

The Department determined the Appellant received \$192.00 per month for [REDACTED] 2017 through [REDACTED] 2018 and calculated the Appellant's benefit should have been \$0.00 for each month because it correctly counted the Appellant's monthly gross earned income.

17. 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.

Title 7 of the CFR §273.18 (a)(2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.

UPM § 7005.25 provides that if the error is an overpayment, the Department recoups by one or more of the following methods, after discussing the overpayment with the assistance unit and obtaining an agreement from the unit if possible: 1. Grant reduction for SNAP or cash assistance overpayments, only if the assistance unit is still receiving benefits; or 2. Installment payments by the assistance unit; or 3. Lump sum repayment by the assistance unit.

UPM § 7045.30(A) (1) (a) provides for recoupment by grant reduction and states in part that if an overpayment was caused by administrative error or unintentional program recipient error and the assistance's unit's grant is \$10 or more, the grant reduction is the largest of either (1) the amount of reduction requested by the assistance unit, (2) \$10 or (3) 10% of the allotment rounded down to the nearest dollar. (b) if the amount of the assistance unit's allotment is less than \$10 prior to the calculation of grant reduction, the reduction is the full allotment and the issuance reduced to \$0.

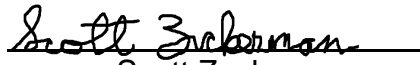
UPM § 7045.30 (B) provides that for installment and other recoupment methods the monthly recoupment rate is at least the same amount which the Department could recoup through grant reduction.

The Department properly informed the Appellant of the recoupment methods available to her on [REDACTED] 2019.

The Department correctly determined that the Appellant was overpaid \$1,344.00 in SNAP benefits for the months of [REDACTED] 2017 through [REDACTED] 2018 and that she has an obligation to repay them.

DECISION

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


Scott Zuckerman
Hearing Officer

Cc: Brian Sexton, Operations Manager, DSS, Middletown Regional Office
Christopher Filek, Fair Hearing Liaison, DSS, Middletown 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, 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.