

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

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

Client ID # ██████████
Case ID # ██████████
Request # 151123

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA"). The notice stated the Appellant received an overpayment of \$4,557.00 in benefits under the Supplemental Nutrition Assistance Program ("SNAP") for the period of ██████████ 2019 through ██████████ ██████████, 2019 and the Department proposes to recoup the overpaid benefits.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department's decision to have her repay such benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ ██████████, 2020.

On ██████████, 2020, the Appellant requested her administrative hearing be rescheduled.

On ██████████, 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2020.

On ██████████, 2020, 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:

██████████, the Appellant
 Rose Montinat, Department's Representative
 Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's determination that the Appellant was overpaid \$4,557.00 in SNAP benefits and that the Department must recoup the overpaid benefits is correct.

FINDINGS OF FACT

1. On ██████████ 2019, the Department granted the Appellant SNAP benefits for a household of three with a certification period from ██████████ 2019 through ██████████, 2019. The household consisted of the Appellant and her two children, ██████████ and ██████████. (Exhibit 5: Federal SNAP – Income Test and Exhibit 8: Periodic Review Form ["PRF"])
2. On ██████████, 2019, the Appellant's daughter, ██████████, began employment for ██████████. (Hearing Summary and Exhibit 6: ██████████ Services employment verification)
3. On ██████████, 2019, ██████████ received here first paycheck for \$414.00. (Exhibit 6: Equifax employment verification)
4. On ██████████ 2019, the Appellant's daughter, ██████████, signed a lease for an Apartment in ██████████, ██████████. (Appellant's testimony and Exhibit A: Lease)
5. On ██████████ 2019, the Department issued \$505.00 in SNAP benefits to the Appellant for a household of three. (Exhibit 9: Benefit Issuance Search)
6. On ██████████, 2019, ██████████ matriculated as a full time student in the Clinical Medical Assistant Certificate Program at ██████████ in ██████████. (Exhibit B: Letter from ██████████ School, ██████████/20)
7. On ██████████ 2019, the Department issued \$505.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
8. On ██████████, 2019, the Appellant submitted her PRF. The Appellant listed ██████████ as a current SNAP household member. The Appellant answered

“No” to the question, “Has anyone moved out of your home?” (Exhibit 8: PRF, [REDACTED]/19)

9. On [REDACTED] 2019, the Department issued \$505.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
10. On [REDACTED] 2019, the Department issued \$505.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
11. On [REDACTED] 2019, the Department issued \$505.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
12. On [REDACTED] 2019, the Department issued \$505.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
13. On [REDACTED] 2019, the Department issued \$509.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
14. On [REDACTED] 2019, the Department issued \$509.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
15. On [REDACTED] 2019, the Appellant submitted an online renewal. The Appellant indicated that [REDACTED] resided in the Household. The Appellant named [REDACTED] as an Authorized Rep indicating her address as [REDACTED]. (Exhibit 2: Renewal Information, [REDACTED]/19)
16. On [REDACTED] 2019, the Department completed a telephone interview. The Appellant reported no household changes. The Department found wages for [REDACTED] by Department of Labor Inquiry. The Department determined [REDACTED] monthly income as \$3292.84 over the SNAP income limit. (Exhibit 7: Case notes, Ex. 5: Federal SNAP – Income Test)
17. On [REDACTED] 2019, the Department sent the Appellant a Notice of Action. The notice stated that effective [REDACTED], 2020, SNAP eligibility has been discontinued because the monthly gross income of your household is more than the limit for this program. (Exhibit 3: Notice of Action, [REDACTED]/19)
18. On [REDACTED] 2019, the Department issued \$509.00 in SNAP benefits to the Appellant for a household of three. (Ex. 9: Benefit Issuance Search)
19. 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 beginning [REDACTED], 2019 through [REDACTED], 2019 in the amount of \$4,557.00 due to agency error. The notice provided the Appellant payment options to repay the overpayment. (Exhibit 4: Notification of Overpayment and Recoupment)

20. On [REDACTED], 2020, OLCRAH conducted an administrative hearing at the Appellant's request as she disagrees that she was overpaid SNAP benefits and is responsible to repay such benefits. (Hearing Record)
21. The Appellant's daughter, [REDACTED], has lived in [REDACTED] since [REDACTED] 2018 with a friend. (Appellant's testimony)
22. The Appellant did not report on her [REDACTED] 2019 PRF and [REDACTED] 2019 SNAP renewal that [REDACTED] was residing and working [REDACTED] because she came home on the weekends. (Appellant's testimony)

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. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited, conducting administrative disqualification hearings.
3. Title 7 of the Code of Federal Regulations ("CFR") § 273.1(a) (1)(2)(3) provides for the general household definition and states that a household is composed of one of the following individuals or group of individuals; an individual living alone; an individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from others; or a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

The Department incorrectly determined that the Appellant's daughter must be included in the assistance unit.

4. 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. The following requirements are applicable to simplified reporting systems.
5. Title 7 CFR § 273.12 (a)(5)(iii)(C) provides that the periodic report form must request from the household information on any changes in circumstances with

paragraphs (a)(1)(i) through (a)(1)(vii) of this section and conform to the requirements of paragraph (b)(2) of this section.

6. Title 7 CFR § 273.12 (a)(1)(ii) provides for household responsibility to report and provides in part that certified change reporting households are required to report the following changes in circumstances: all changes in household composition, such as the addition or loss of a household member. (cross reference 7 CFR § 273.12(a)(5)(iii)(C))
7. Title 7 CFR § 273.14 (a) provides that no household may participate beyond the expiration of the certification period assigned in accordance with §273.10(f) without a determination of eligibility for a new period. The state agency must establish procedures for notifying households of expirations dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

The Appellant failed to report on her PRF and her SNAP renewal that her daughter, a member of the SNAP household, moved to [REDACTED] on [REDACTED] 2019.

8. UPM § 1555.35(B)(2) provides for the effective date of change for SNAP adverse action changes.
 - a. Changes that cause ineligibility or a decrease in benefits are taken into consideration:
 - (1) no earlier than the month following the month of the change; and
 - (2) no later than the month following the month in which the notice of adverse action would expire if the change had been timely reported.
 - b. The change may be taken into consideration in the same month that the adverse action notice expires as long as the notice expires:
 - (1) after the month in which the change occurred; and
 - (2) before the regularly scheduled issuance date of the unit's monthly benefits.
9. UPM § 7045.15(D)(3) provides that in the computation of the overpayment, the overpayment begins as of the date the factor should have been considered in the eligibility determination. In determining this date, the Department allows for the ten day notification period, if appropriate.
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. Title 7 CFR § 273.18(c)(ii)(A) provides for calculating the claim amount and states that the actual steps for calculating a claim are determine the correct amount of benefits for each month that a household received an overpayment and (C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment.
12. 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 did receive for a particular month or series of months.
13. UPM § 7045.15 pertains 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.
 1. 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.
14. UPM § 6010.10(B)(1) provides that the retrospective method is used to calculate benefits in all months after the initial month of eligibility.

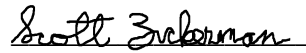
Based on the hearing record a determination of the actual amount of the overpayment, if any, cannot be determined as the Appellant testified and provided evidence that her household was a household of two during the time period of [REDACTED] 2019 through [REDACTED] 2019. A comparison of the amount the Appellant received vs the amount of SNAP benefits the Appellant should have received cannot be determined.

DECISION

The Appellant's appeal is **REMANDED BACK TO THE DEPARTMENT FOR FURTHER ACTION.**

ORDER

1. The Department will remove the Appellant's Daughter, [REDACTED] from the assistance unit for the months of [REDACTED] 2019 through [REDACTED] 2019.
2. The Department will recalculate the Appellants monthly benefit amounts based on a household of two and actual income received in each month.
4. The Department will issue corrective notices of any overpayments.
5. No later than [REDACTED], 2020, the Department will provide the undersigned with proof of compliance.


Scott Zuckerman
Hearing Officer

CC: Musa Mohamud, DSS, Operations Manager, Hartford Regional Office
Judy Williams, DSS, Operations Manager, Hartford Regional Office
Jessica Carroll, DSS, Operations Manager, Hartford Regional Office
Jay Bartolemei, DSS, Fair Hearing Liaison Supervisor, Hartford Regional Office
Rose Montinat, DSS, Fair Hearing Liaison, Hartford 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 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.

