

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

Case ID # ██████████
Client ID # ██████████
Request # 152166

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, 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 for \$891.30 and that she must repay the overpayment.

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

On ██████████7, 2020, 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
Marybeth Mark, Department's Representative
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant was overpaid \$891.30 in SNAP benefits and that the Department's proposal to recover the overpaid benefits is correct.

FINDINGS OF FACT

1. On [REDACTED], 2017, the Appellant applied for the SNAP program for herself and her two children. (Appellant's Testimony, Exhibit 2: Case Notes)
2. On [REDACTED], 2017, the Appellant informed the Department that she has started working for [REDACTED] on [REDACTED], 2017, and provided a biweekly check for the amount of \$1680. (Appellant's Testimony, Exhibit 2, Hearing summary)
3. The Appellant's monthly gross earned income was \$3,360.00 (\$1680+\$1680) for [REDACTED] 2018 and [REDACTED] 2018. (Hearing Record, Appellant's Testimony)
4. The Appellant also received \$300 a month in child support. (Appellant's Testimony)
5. The Appellant's total gross monthly income was \$3660.00 (\$3360.00 + \$300.00). (Hearing Record)
6. On [REDACTED], 2018, the Department determined that the Appellant's reported earnings were not entered to calculate her SNAP benefit. (Exhibit 2)
7. On [REDACTED] 2018, the Department closed the SNAP benefits for exceeding the gross income limit for a family of three effective [REDACTED], 2018. (Exhibit 2)
8. On [REDACTED] 2020, the Department determined that the Appellant was overpaid for [REDACTED] 2018 and [REDACTED] 2018 and overpayments were created for those two months. (Exhibit 2, Department's Testimony)
9. The Appellant received \$450.00 in SNAP benefits for [REDACTED] 2018 and [REDACTED] 2018. (Exhibit 1: Notification of Overpayment and Recoupment)
10. The Department determined that the Appellant was eligible for \$0.00 in SNAP benefits for [REDACTED] 2018 and [REDACTED] 2018. (Exhibit 1)
11. The Department calculated overpayments totaling \$891.30 (\$450.00 for [REDACTED] y 2018 + \$441.30 for [REDACTED] 2018). The Department did not explain why the amount of overpayment for [REDACTED] 2018 was less than the SNAP amount issued for that month. (Exhibit 1)

12. On [REDACTED], 2020, the Department issued a Notification of Overpayment and Recoupment notice informing the Appellant that she was overpaid \$891.30 in SNAP from [REDACTED] 2018, to [REDACTED] 2018. (Exhibit 1)
13. 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] 2020. This decision, therefore, was due no later than [REDACTED] 2020. (Hearing Record)

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 the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayments 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") § 273.2 (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.
4. 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 that 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)).

5. Title 7 of the CFR § 273.9(b) provides that household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.
6. Title 7 of the CFR § 273.9 (b)(1) provides earned income shall include: (i) All wages and salaries of an employee
7. "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)).
8. Uniform Policy Manual ("UPM") § 5005 (A)(1) provides that the Department counts the assistance unit's available income, and that income is considered available if it is received directly by the assistance unit.
9. The Department correctly determined that the Appellant was receiving earned income from employment from [REDACTED] 2018 through [REDACTED] 2018.
10. Title 7 of the CFR § 273.10 (c)(1)(ii) & (c)(2)(i) provides for converting into monthly amounts.
11. UPM § 5025.05 provides for Income Received Monthly or More Frequently and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.
12. The Department correctly determined that the Appellant's earnings must be included when calculating the Appellant's SNAP benefits.
13. Title 7 of the CFR § 273. 9 (4) (b) (2) (iii) provides unearned income shall include but not limited to support or alimony payments made directly to the household from non-household members.
14. The Department correctly counted the support payments received by the Appellant for her children to determine the total gross monthly income of the household.
15. Effective June 19, 2009, the Department implemented SNAP changes referred to as Expanded Categorical Eligibility. Effective July 1, 2009, the gross income limit for the SNAP increased to 185% of the Federal Poverty Level for SNAP households that do not contain an elderly or disabled household member.
16. Effective October 1, 2017, to September 30, 2018, 185% of the FPL for a household of three individuals under ECE is \$3,149.00.
17. The Appellant's gross income of \$3660.00 exceeded 185% of the FPL for [REDACTED] 2018 and [REDACTED] 2018.
18. 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

19. 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.
20. UPM § 7045.05 (A) provides the Department recoups from the assistance unit which received the overpayment.
21. 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.
22. The Department properly allowed the Appellant an opportunity to participate in the recoupment process.
23. 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.
24. The SNAP overpayments are considered agency error in nature and must be repaid.
25. 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.
26. The Department correctly proposed the recoupment of the SNAP overpayment as it was discovered in ██████████ 2018 which was within 12 months of the overpayment occurrence.
27. Title 7 of the CFR §273.18 (c)(1) (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.

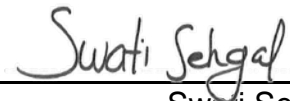
28. Title 7 of the CFR § 273.18 (a)(2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.
29. Title 7 of the CFR § 273.18 (a) (1) (i) provides for claims against households and states that a recipient claim is an amount owed because of benefits that are overpaid.
30. The Department correctly determined that the Appellant was overpaid SNAP benefits in [REDACTED] and [REDACTED] 2018 and that she must repay the benefits even if the overpayments were caused by Department error.
31. The Department correctly determined that the Appellant is obligated to repay the \$891.30 in SNAP overpaid benefits she received for the period of [REDACTED] 2018, through [REDACTED] 2018.

DISCUSSION

The Appellant argued that she promptly informed the Department of her employment on [REDACTED] 2017 and provided her wage stub. The Department failed to take appropriate action at the time and subsequently, she kept on receiving SNAP benefits. The Department finally closed SNAP benefits in [REDACTED] 2018 and created overpayment for [REDACTED] 2018 and [REDACTED] 2018. The Appellant is correct that these overpayments were caused by the Department's delayed action, however, based on Regulations and State policies any claim for an overpayment caused by an action or failure to take action by the State agency are considered agency error in nature and must be repaid.

DECISION

The Appellant's appeal is **DENIED**



Swati Sehgal
Hearing Officer

Cc: E. Tyler Nardine, Operations Manager, Norwich Regional Office
Cheryl Stuart, Operations Manager, Norwich Regional Office
Marybeth Mark, Fair Hearing Liaison

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.