

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

██████████
Request # 160706

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") issued a Notification of Overpayment and Recoupment notice to ██████████ (the "Appellant"), advising her that she has been overpaid \$676.00 in Supplemental Nutrition Assistance Program ("SNAP") benefits for the period of ██████████ 2018 through ██████████ 2018 and that she must repay the overpayment.

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

On ██████████, 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, 17-61, and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
Ferris Claire, Department's Representative
Carla Hardy, Hearing Officer

Due to the Covid-19 Pandemic, the hearing was held as a telephonic hearing.

The hearing record remained open in order for the Department to submit additional evidence. The Department did not submit any information. The hearing record closed on [REDACTED] 2020.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's determination that the Appellant was overpaid SNAP benefits and that the Department must recover the overpaid benefits is correct.

FINDINGS OF FACT

1. Prior to [REDACTED] 2018, the Appellant was receiving SNAP benefits for a household of two persons that included herself and her daughter. (Exhibit 2: Eligibility Determination Results; Appellant's Testimony)
2. On [REDACTED] 2018, the Appellant started working for [REDACTED]. She was hired at the rate of \$11.00 hourly and expected to work at least 38 hours weekly. (Exhibit 1: Employment Letter from [REDACTED])
3. In [REDACTED] 2018, the Appellant reported her employment to the Department. The Department did not act on this information. (Exhibit 3: Case Notes)
4. On [REDACTED] 2018, the Department received the Appellant's Periodic Report Form ("PRF"). The Appellant reported new employment with [REDACTED] and submitted paystubs. (Exhibit 3: Case Notes)
5. The Appellant does not remember the dates of her employment but believes that the Department's records are correct. (Appellant's Testimony)
6. On [REDACTED] 2018, the Department reviewed the Appellant's PRF. She submitted the following wage stubs:

Pay Date	Gross Earnings
[REDACTED]/18	\$425.92
[REDACTED]/18	\$430.65
[REDACTED]/18	\$364.32
[REDACTED]/18	\$439.78
Total	\$1,660.67

(Exhibit 3: Case Notes)

7. On [REDACTED], 2018, the Department completed the Appellant's PRF. Her SNAP benefits were reduced to \$15.00 monthly. (Exhibit 3: Case Notes)

8. The Appellant received the following SNAP benefits for the period of [REDACTED] 2018 through [REDACTED] 2018:

Month	Amount
[REDACTED] 2018	\$353.00
[REDACTED] 2018	353.00
Total	\$706.00

(Exhibit 4: Notification of Overpayment and Recoupment; Department's Testimony)

9. In [REDACTED] 2020, the Department became aware of the Appellant's [REDACTED] 2018 and [REDACTED] 2018 SNAP overpayment. (Department's Testimony)
10. On [REDACTED] 2020, the Department issued a Notification of Overpayment and Recoupment notice to the Appellant advising her that she was over-paid SNAP benefits in the amount of \$676.00 for the period of [REDACTED] 2018 through [REDACTED] 2018. (Exhibit 4: Notification of Overpayment and Recoupment)
11. The overpayment is categorized as an agency error. (Exhibit 4: Notification of Overpayment and Recoupment; Department's Testimony)
12. The Appellant's earnings were projected for [REDACTED] 2018 and [REDACTED] 2018 based on the wage stubs that she submitted in [REDACTED] 2018. (Department's Testimony)
13. On [REDACTED] 2020, the Appellant paid \$33.00 toward the \$676.00 overpayment to the Commissioner of the Department of Social Services. (Appellant's Exhibit C: Check payable to Commissioner of the Department of Social Services; Department's Testimony)
14. 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 hearing. The Appellant requested an administrative hearing on [REDACTED], 2020. Therefore this decision is due not later than [REDACTED] 2020.

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

overpayments and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.

3. Title 7 of the Code of Federal Regulations (“CFR”) Section 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 Federal income poverty levels established as provided in section 673(2) of the community Services Block Grant Act (42 U.S.C. 9902(2)).
4. Title 7 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.
5. “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)).
6. Uniform Policy Manual (“UPM”) Section 5520.40 provides that Income eligibility for the SNAP program is determined either through the use of the SNAP gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance and SSI.
 - A. Gross Income Eligibility Test
 1. The Gross Income Eligibility test is used for all units except those which:
 - a. Include one or more persons who are elderly or disabled; or
 - b. Are categorically eligible for SNAP benefits.
 2. When the Gross Income Test is used, the assistance unit’s gross monthly income is compared to a limit which is equal to 130% of the Supplemental Nutritional Assistance Program Applied Income Limit (“SNAPAIL”) for the number of persons in the needs group:
 - a. If the unit’s total gross income exceeds the standard, the unit is not eligible for SNAP benefits.
 - b. If the unit’s gross income equals or is less than the limit, the unit’s applied income is then subjected to the Applied Income Test.

7. Title 7 CFR § 273.2(j)(2)(ii) provides that the State agency, at its option, may extend categorical eligibility to the following households . . .”
- (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 . . .”
- (B) “Subject to FNS approval, 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 three and four of the TANF block grant . . .”
8. Households in Connecticut with incomes below 185% of the federal poverty level qualify for the State’s “Help for People in Need” program, which meets the requirements outlined in 7 CFR § 273.2(j)(2)(ii), allowing the Department to extend broad-based categorical eligibility for SNAP to all such qualifying households.
9. Effective [REDACTED] 2018, 185% of the Federal Poverty Level for Extended Categorical Eligibility for a household of two persons is \$2,538.00.
10. Title 7 CFR § 273.9(b)(1)(i) provides that earned income shall include all wages and salaries of an employee.

UPM § 5005(A)(1) through (3) provides in relevant part 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, someone else on behalf of the assistance unit or deemed by the Department to benefit the assistance unit.

UPM § 5025.05(A)(1) provides that in computing income received in past months, the Department uses the exact amount of the unit’s available income received or deemed in the month.

The Department correctly determined that the Appellant’s earnings must be included when calculating the Appellant’s SNAP benefits.

The Department incorrectly used projected earnings to compute the Appellant’s income received in [REDACTED] and [REDACTED] 2018.

11. Title 7 CFR § 273.18(a)(1)(i) provides that a recipient claim is an amount owed because of overpaid benefits.

UPM § 7000.01 provides that the definition of 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.

12. Title 7 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.

13. The Department calculated the Appellant's overpayment as follows:

Month	Total Benefit Rec'd	Eligible Benefit	Overpayment Amt
██████████ 2018	\$353.00	\$15.00	\$338.00
██████████ 2018	\$353.00	\$15.00	\$338.00
Total	\$706.00	\$30.00	\$676.00

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

UPM § 7045.05(A)(1) provides that 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.

15. Title 7 CFR § 273.18(c)(1)(i) provides that the State agency must calculate a claim back to at least twelve months prior to when you become aware of the overpayment.

UPM § 7045.10 provides for limitations to the recoupment.

- A. 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 an administrative error if the overpayment occurred no earlier than 12 months prior to the month the Department discovers it.

ment incorrect [REDACTED] ned that the overpayment for the period of [REDACTED] 2018 through [REDACTED] 2018 occurred within 12 months of the [REDACTED]'s discovery in [REDACTED] 0.

16. The Department incorrectly determined that the \$676.00 overpayment for the period of [REDACTED] 2018 through [REDACTED] 2018 is subject to recoupment.

17. On [REDACTED] 2020, the Department incorrectly issued a Notification of Overpayment and Recoupment notice to the Appellant advising her that she was overpaid SNAP benefits and that she must repay the \$676.00 overpayment.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department shall remove the \$676.00 Agency Error overpayment.
2. The Department shall submit a request to the appropriate unit to reimburse the Appellant for all repayments that she made toward this overpayment.
3. The Department shall provide compliance with this order by [REDACTED] 2020.


Carla Hardy
Hearing Officer

Pc: Rachel Anderson, Cheryl Stuart, Lisa Wells, Ferris Clare, Department of Social Services, New Haven 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 06105-3730.

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 06105-3730. 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.