

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 # ██████████  
Request #161149

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2020, the Department of Social Services (the “Department”) issued a form W-3016 notification letter to ██████████ (the “Appellant”) denying her request for SNAP replacement benefits.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s denial of her request for SNAP replacement benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2020. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

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. None of the parties objected to the hearing being held telephonically. The following individuals were present at the hearing:

██████████ Appellant  
Althea Forbes-Francis, Department’s Hearing Liaison  
James Hinckley, Hearing Officer

## **STATEMENT OF THE ISSUE**

Whether the Department was correct when it denied the Appellant's request for replacement of SNAP benefits.

## **FINDINGS OF FACT**

1. The Appellant resides in a SNAP household that includes herself and her two minor children. (Hearing Record)
2. On ██████ 2020, the Appellant received a monthly issuance of SNAP for her household in the amount of \$509.00. (Hearing Record)
3. In the recent past, the Appellant was issued supplemental SNAP benefits related to the COVID-19 pandemic for each of her children. (Appellant's testimony, Hearing Liaison's testimony)
4. Because the Appellant had more SNAP benefits available to her than usual, due to receiving supplemental benefits for each of her children in addition to her regular monthly allotment, she purchased more food than usual in ██████ 2020. (Appellant's testimony)
5. The Appellant's SNAP was discontinued effective ██████ which was the end of her certification period, because her recertification was not completed timely. (Hearing Record)
6. On ██████ 2020, tropical storm Isaias hit the State of Connecticut, causing widespread and protracted power outages throughout the state. (Hearing Record)
7. The Appellant lost power for six days due to the tropical storm. (Appellant's testimony)
8. On ██████ 2020, the Department completed the Appellant's SNAP recertification. Because the delay in completing the recertification was due to the fault of the Department, the Appellant's SNAP was reinstated for the period from ██████ 2020 to ██████ 2020. (Hearing Record)
9. On ██████ 2020, the Department issued to the Appellant a SNAP benefit for ██████ 2020 in the amount of \$312.00.
10. On ██████ 2020, the Appellant reported to the Department that she lost food purchased with SNAP benefits due to a household disaster. She attested that she lost \$500.00 in food purchased with SNAP. (Ex. 1: Form W-1225: Request for Replacement of Food Purchased with SNAP Benefits, Ex. 2: Form W-1226: Proof of Food Loss – Collateral Contact Form)

11. The Department obtained a waiver from FNS that allowed households up to 30 days to report losses of food purchased with SNAP as a result of storm Isaias. (Hearing Liaison's testimony)
12. On [REDACTED] 2020, the Department notified the Appellant that her request for replacement of destroyed food purchased with SNAP was denied. The reason given for the denial was that her [REDACTED] 2020 SNAP allotment, which was issued on [REDACTED] 2020, was not available to her on [REDACTED] 2020, the date of the storm, therefore food purchased with the [REDACTED] allotment could not have been destroyed due to the storm. (Ex. 4: W-3016 Notification Letter)

### 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 in accordance with federal law.
2. "Subject to the restrictions in paragraph (a)(3) of this section, State agencies shall provide replacement issuances to a household when the household reports that food purchased with Program benefits was destroyed in a household misfortune." Title 7 of the Code of Federal Regulations ("CFR") § 274.6(a)(1):
3. "Replacement issuances shall be provided only if the household timely reports a loss orally or in writing. The report will be considered timely if it is made to the State agency within 10 days of the date food purchased with Program benefits was destroyed in a household misfortune." 7 CFR § 274.6(a)(1)
4. **The Appellant timely reported to the Department on [REDACTED] 2020 that she suffered a household disaster on [REDACTED] 2020, and lost food purchased with SNAP benefits due to the disaster. The Appellant's report was within 10 days, although the Department's waiver obtained from FNS extended to 30 days the time allowed to report food loss that resulted from tropical storm Isaias.**
5. 7 CFR § 274.6(a)(4) provides as follows:
  - (i) Prior to issuing a replacement, the State agency shall obtain from a member of the household a signed statement attesting to the household's loss. The required statement may be mailed to the State agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.
  - (ii) If the signed statement or affidavit is not received by the State agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the

statement is received the day after the weekend or holiday, the State agency shall consider the statement timely received.

- (iii) The statement shall be retained in the case record. It shall attest to the destruction of food purchased with the original issuance and the reason for the replacement. It shall also state that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim.
6. **The Appellant timely submitted to the Department a signed attestation that conformed to the requirements in 7 CFR § 274.6(a)(4).**
7. "Except for households certified under 7 CFR part 280, replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value." 7 CFR § 274.6(a)(3)(iii)
8. **The last regular allotment issued to the Appellant's household was \$509.00 issued on [REDACTED] 2020. The Appellant's declared food loss of \$500.00 did not exceed the maximum of one month's allotment.**
9. **The Appellant was eligible for replacement of SNAP benefits in the amount of \$500.00, the amount that was used to purchase food that was destroyed in a disaster.**
10. **The Department was incorrect when it denied the Appellant's request for replacement of SNAP benefits.**

### DISCUSSION

There is no language in the SNAP regulations that restricts replacement of SNAP only to benefits issued in the month of the disaster. The language is "up to a maximum of one month's allotment." The Appellant did not timely receive her [REDACTED] 2020 allotment due to the fault of the Department. As such, one month's allotment for the Appellant was represented by the last regular allotment of \$509.00 that she received on [REDACTED] 2020.

### DECISION

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

### ORDER

1. The Department must issue replacement SNAP benefits to the Appellant in the amount of \$500.00.
2. The Department must send directly to the undersigned Hearing Officer, by no later than [REDACTED] 2020, proof that replacement SNAP benefits have been issued to the Appellant in the amount of \$500.00. The Hearing Decision will not be considered complied with until the Fair Hearing Officer receives such proof.

*James Hinckley*  
James Hinckley  
Hearing Officer

cc: Patricia Ostroski  
Althea Forbes-Francis

### **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.