

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 #162876

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) denied a request from ██████████ (the “Appellant”) to replace SNAP benefits she declared were used to purchase food subsequently destroyed in Tropical Storm Isaias.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s denial of her request to issue 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. The Appellant had no objection to the hearing being held telephonically. The following individuals were present at the hearing:

██████████ Appellant
██████████ Appellant’s former husband and authorized representative
Christopher Filek, Department’s Hearing Liaison
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

Whether the Department was correct when it denied the Appellant's request to replace SNAP benefits due to household misfortune.

FINDINGS OF FACT

1. The Appellant is a SNAP recipient. (Hearing Record)
2. The Appellant suffers from some cognitive impairment due to multiple sclerosis. (Hearing Record)
3. The Appellant's former husband acts as an authorized representative for her (he is her "AREP"). (Hearing Record)
4. On [REDACTED] 2020, Tropical Storm Isaias affected the State of Connecticut, causing widespread and protracted power outages throughout the state. (Hearing Record)
5. Normal SNAP replacement rules require households to notify the Department within 10 days of the date food purchased with SNAP is destroyed. The Department received waiver approval from FNS to increase this to 30 days. Because of the waiver, households had until [REDACTED] 2020 to report to the Department that food purchased with SNAP was lost because of Tropical Storm Isaias and the subsequent power outages. (Ex. 2: Field Ops Communication)
6. On [REDACTED] 2020, the Appellant's AREP contacted the Department to inquire about replacement SNAP benefits due to the storm. (Ex. 1: Case Notes)
7. On [REDACTED] 2020, a Department eligibility worker mailed the Appellant the two forms necessary to make a claim for replacement benefits, forms W-1225 and W-1226. (Case Notes)
8. On [REDACTED] 2020, the Department received a completed form W-1225 from the Appellant, but she did not return form W-1226. (Ex. 1)
9. On [REDACTED] 2020, the Department mailed the Appellant a notice that stated, in relevant part, "the form W1226 "Proof of Food Loss" was not received. In order to complete the benefit replacement process, both forms must be submitted. A copy of the W1226 has been sent to you in a separate envelope....Please complete and return before [REDACTED] 2020." (Ex. 3: W-3016 Notification from Department of Social Services)
10. The Appellant did not pay careful attention to the [REDACTED] 2020 communication from the Department and overlooked the requirement to return

form W-1226, and the deadline to do so. Her AREP was out of state during this time and unable to assist her. (AREP's testimony)

11. On [REDACTED] 2020, the Department issued a 20% automatic SNAP replacement benefit to the Appellant based on federal approval due to Tropical Storm Isaias. (Ex. 1)
12. On [REDACTED] 2020, the Appellant returned the completed W-1226 "Proof of Food Loss" form. (Ex. 1)
13. On [REDACTED] 2020, the Department determined that the Appellant was not eligible for SNAP replacement benefits because she did not return the required forms by the deadlines and took no further action. (Ex. 1)

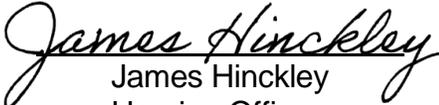
CONCLUSIONS OF LAW

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 ("C.F.R.") § 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 C.F.R. § 274.6(a)(1)
4. **The Appellant had until [REDACTED] 2020 to report to the Department that she suffered a food loss, because the Department obtained a waiver from FNS extending from 10 to 30 days the time limit specified in 7 C.F.R. § 274.6(a)(1). The Appellant timely reported that she suffered a loss via form W-1225 which she submitted to the Department on [REDACTED] 2020.**
5. 7 C.F.R. § 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 did not submit a signed statement attesting to the loss until she submitted form W-1226 “Proof of Food Loss” on [REDACTED] 2020. This was 24 days from when she reported the loss on [REDACTED] 2020, and beyond the 10-day deadline specified in 7 C.F.R. § 274.6(a)(4)(ii).**
7. **The Department was correct when it denied the Appellant’s request for replacement of SNAP benefits. Her documents were not received within the time limits set forth in the SNAP regulations.**

DECISION

The Appellant’s appeal is **Denied**.


James Hinckley
Hearing Officer

cc: Brian Sexton
Christopher Filek

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.