

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

Client ID # ██████████
Case ID # ██████████
Request # 163656

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services sent ██████████ (the "Appellant") a notice denying the replacement of electronic benefits from the Supplemental Nutrition Assistance Program ("SNAP") due to storm.

On ██████████ 2020, the Appellant requested an administrative hearing to request the replacement of SNAP benefits for ██████████ t 2020.

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, 17b-61, and 4-176e to 4-184 of the Connecticut General Statutes, inclusive, the Department held an administrative hearing by telephone.

The following individuals participated in the hearing:

██████████ Appellant
Javier Rivera, Department's Representative
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant is entitled to receive a replacement of 80% of the destroyed SNAP benefits due to a tropical storm in ██████████ 2020.

FINDINGS OF FACT

1. On ██████████ 2020, the Appellant contacted the Department and requested the replacement of food loss due to the tropical storm for ██████████ 2020. (Hearing Summary, Appellant's Testimony, Exhibit 3: Email Correspondence)
2. On ██████████ 2020, the Appellant was informed that the Department will mail her W1225, Request for Replacement of Food Purchased with SNAP, and W1226, Proof of Food Loss which she needs to complete and return within 10 days. (Appellant's Testimony)
3. The Appellant did not receive such forms from the Department. (Appellant's Testimony, Department's Testimony)
4. On ██████████ 2020, the Appellant received the 20% of SNAP replacement benefits due to a tropical storm. (Exhibit 1: Case Notes, Appellant's Testimony)
5. On ██████████, 2020, the Appellant contacted the Department and submitted a letter from Eversource to verify the power outage due to a tropical storm as requested by the Department. (Appellant's Testimony)
6. On ██████████ 2020, the Appellant again contacted the Department to inquire about the status of her request for the replacement of SNAP benefits. (Exhibit 1 and the Appellant's Testimony)
7. On ██████████ 2020, the Department mailed the Appellant W-1227, Denial of Request for Replacement of Food Purchased with SNAP Benefits. (Exhibit 1 and Appellant's Testimony)
8. 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 ██████████ 2020. This decision was due not later than ██████████ 2020, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides that the Department of Social Services be designated as the state agency for the administration of the

supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

2. Title 7 of the Code of Federal Regulations (“CFR”) § 273.17(a)(1) provides the State agency shall restore to households benefits which were lost whenever the loss was caused by an error by the State agency or by an administrative disqualification for intentional Program violation which was subsequently reversed as specified in paragraph (e) of this section, or if there is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits. (Emphasis added)
3. The Department’s Uniform Policy Manual (“UPM”) is the equivalent of 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)).
4. UPM § 6515 provides for benefit issuance. Cash and food stamp benefits deposited in an EBT account in a financial institution must be accessed through the use of Department issued debit cards.
5. UPM § 6530.05(A)(2) provides that the Department authorizes the replacement of EBT issued benefits that are considered lost, stolen, or destroyed.
6. UPM§ 6530.25 (A)(1) provides that benefit checks and eligible foods are treated as destroyed benefits if they are damaged in a natural or man-made disaster, such as a fire, flood, or other event, and are rendered useless or unavailable.
7. UPM§ 6530.25 (B) (1) provides that the Department is responsible for obtaining verification of the disaster through a collateral contact with a state, or local community organization, or through a home visit as a condition of replacement.
8. **The Appellant correctly called the Department on [REDACTED], 2020, and requested the replacement of destroyed SNAP benefits due to a tropical storm.**
9. UPM § 6530.50 (C)(3) provides the following Conditions of Replacement of Destroy Benefits
 - a. The Department provides replacement benefits for eligible foods if they are destroyed in a disaster;
 - b. The amount of benefits authorized to replace destroyed eligible foods is the amount equal to the value of the destroyed items, not to exceed the amount of the original allotment.
10. UPM§ 6530.50 (D) (2) provides that requests for replacement of eligible foods that are destroyed in a disaster must be filed within 10 calendar days of the incident.

11. The Department informed the Appellant that she needs to complete W-1225 and W-1226 and return them to the Department within 10 days from the mailing date but failed to mail such forms to the Appellant.
12. The Department incorrectly determined that the Appellant failed to provide W-1225 and W-1226 when it failed to send those Forms to the Appellant.

DISCUSSION

The Appellant testified that she contacted the Department and requested replacement of 80% of her destroyed SNAP benefit as replacement of 20% of the destroyed SNAP benefit was deposited in her EBT account. The Appellant further stated that she was informed that the Department will mail her W-1225 and W-1226 which she never received. The Department also provided testimony that there was no evidence present in the case record to show such forms were mailed to the Appellant. The Department was wrong to deny the replacement of 80% of the Appellant's destroyed benefit.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department shall grant the Appellant's request for replacement of 80% of the destroyed SNAP benefit.
2. Compliance with this order should be forwarded to the undersigned no later than [REDACTED] 2020.



Swati Sehgal
Hearing Officer

CC: Tricia Morelli, Operations Manager, DSS, R.O. #11, Manchester
Javier Rivera, Fair Hearing Liaison, DSS, R.O.#11, Manchester

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.

