

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVE.
HARTFORD, CT 06105-3725

██████████ 2020
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 164485

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") denied ██████████ ██████████ (the "Appellant") ██████████ 2020 request for replacement of food purchased under the Supplemental Nutrition Assistance Program ("SNAP").

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department's decision to deny such 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, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing via teleconference.

The following individuals called in for the hearing:

██████████, Appellant
Jeffrey Fincher, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's request for replacement of food purchased due to a household misfortune or disaster under the SNAP was correct.

FINDINGS OF FACT

1. The Appellant is a recipient of benefits under the SNAP. (Hearing Record)
2. In ██████████ 2020, the Appellant received an allotment of \$194.00 under the SNAP. (Hearing Record)
3. For the period ██████████ 2020 through ██████████ 2020, the Appellant incurred a loss of power due to storm Isaias resulting in the loss of refrigerated and frozen foods purchased with SNAP benefits. (Exhibit 1: Request for Replacement of Food Purchased with SNAP Benefits and Appellant's Testimony)
4. In ██████████ 2020, the Department approved an automatic SNAP replacement issuance of 20% of a household's monthly benefit for all active SNAP households who may have experienced food loss due to storm Isaias. The Appellant received \$38.00. $\$194.00 \times 20\% = \38.80 (Hearing Record)
5. On ██████████ 2020, the Department received a written request from the Appellant to replace food lost during the power outage caused by storm Isaias. (Exhibit 1: Request for Replacement of Food Purchased with SNAP Benefits, Exhibit 5: Handwritten Note ██████████/20, and Appellant's Testimony)
6. On ██████████ 2020, the Department received a completed W1225 Request for Replacement of Food Purchased with SNAP Benefits form ("W1225") signed by the Appellant on ██████████, 2020. The form states in part, "By signing below, I attest to the following: ... Food my household bought with SNAP benefits was destroyed in a disaster or household misfortune. I understand the following: (2) DSS must receive this signed statement within 10 days of the date I reported my loss to DSS in order to receive food replacement." (Exhibit 1: Request for Replacement of Food Purchased with SNAP Benefits, Exhibit 4: Case Notes, and Department Representative's Testimony)
7. On ██████████ 2020, the Department issued the Appellant a notice requesting proof of power loss. The notice states, "Please complete W1226 form or have your electrical company provide a letter of verification

indicating how many days you lost power. W1226 will need to be completed by someone out of the home. Not the client.” The Department failed to list a due date for the information on the notice. (Exhibit 2: Notification and Exhibit 4: Case Notes)

8. On [REDACTED] 2020, the Department received a completed W-1226 Proof of Food Loss – Collateral Contact (“W-1226”) Form from the Appellant. (Exhibit 3: W1226 Proof of Food Loss – Collateral Contact Form)
9. On [REDACTED] 2020, the Department denied the Appellant’s request for replacement of food purchased with SNAP benefits due to a household misfortune or disaster because the Department determined the Appellant failed to submit proof of the loss within 10 days of the date of the request for replacement benefits. (Exhibit 4: Case Notes and Department Representative’s Testimony)
10. The issuance of this decision is timely under Title 7 Code of Federal Regulations Section 273.15(c)(1) which requires that a decision be issued within 60 days of the request for an administrative 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(7) 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. Title 7 of the Code of Federal Regulations (“C.F.R.”) Section 274.6(a)(1) provides for: “*Providing replacement issuance.* 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.”
3. “*Replacement restrictions.* Replacement issuances shall be provided only if a 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 is destroyed in a household misfortune.” 7 C.F.R. § 274.6(a)(3)(i)
4. Federal regulation provides that:

Household statement of loss. 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.

7 CFR § 274.6(a)(4)(i)

5. Federal regulation provides that:

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.

7 CFR § 274.6(a)(4)(ii)

6. “*Verifying issuance and household misfortune.* (i) Upon receiving a request for replacement of an issuance for food destroyed in a household misfortune, the State agency shall determine if the issuance was validly issued. The State agency shall also comply with all applicable provisions in paragraphs (a)(3) through (a)(5) of this section.” 7 CFR § 274.6(a)(6)(i)
7. Federal regulation provides that:

Prior to replacing destroyed food that was purchased with Program benefits, the State agency shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit.

7 CFR § 274.6(a)(6)(ii)

8. “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)
9. “*Time limits for making issuance replacements.* (i) Replacement issuances shall be provided to households within 10 days after report of loss or within two (2) working days of receiving the signed household statement

required in paragraph (a)(4) of this section, whichever date is later.” 7 CFR § 274.6(a)(5)(i)

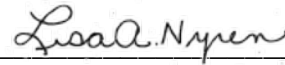
10. The Department correctly determined the loss of power due to storm Isais as a household misfortune under SNAP regulations.
11. The Department correctly determined the Appellant's report of food loss as timely because the Department received a written request from the Appellant to replace food purchased under the SNAP on [REDACTED] 2020, nine (9) days after the household's misfortune.
12. The Department correctly obtained a signed statement attesting to the household's loss from the Appellant within 10 days of the date of report because the Department received form W1225 from the Appellant on [REDACTED] 2020, the same day as the report of loss by the Appellant to the Department.
13. On [REDACTED] 2020, the Department correctly obtained proof of the Appellant's loss of power which caused the Appellant's food loss as documented on form W-1226.
14. The Department incorrectly delayed the processing of the Appellant's request for replacement benefits due to a household misfortune because the Department failed to act on the Appellant's request until [REDACTED] 2020 when the Department issued a request for verification of power loss to the Appellant. In addition, the Department delayed the eligibility determination until [REDACTED] 2020, twenty-nine (29) days after receipt of proof of loss on [REDACTED] 2020. The Department failed to comply with time limits for making issuance replacements.
15. On [REDACTED] [REDACTED] 2020, the Department incorrectly denied the Appellant's request for replacement of SNAP benefits due to a household misfortune for the reason failed to meet the 10 day deadline. The Appellant submitted the W-1226 on [REDACTED] 2020, six (6) days after the Department requested verification of power loss confirming he met the criteria under SNAP that a household misfortune occurred. Federal regulations state the attestation of loss must be submitted within 10 days of the report of loss, however there is no time limit associated with the Department's determination that such destruction occurred in a household misfortune or disaster.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department must grant the Appellant's request for replacement of food purchased with SNAP benefits due to a household misfortune and issue replacement benefits of \$156.00. [\$194.00 [REDACTED] allotment - \$38.00 20% replacement = \$156.00 SNAP balance due]
2. Compliance is due within 10 days of the date of this decision.



Lisa A. Nyren
Fair Hearing Officer

CC: Tonya Cook-Beckford, DSS #42
Jeffrey Fincher, DSS #42

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.

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.