

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

Case # ██████████
Client ID # ██████████
Request # 165136

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") notified ██████████, (the "Appellant") that her request for replacement of SNAP benefits due to a storm was denied because the request was not received timely.

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, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant
Kristin Haggan, Department Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny replacement of SNAP benefits due to storm Isaiah was correct.

FINDINGS OF FACT

1. The Appellant is active on SNAP for a household of one. (Hearing record)
2. On [REDACTED] 2020, the state of Connecticut was hit with Tropical storm Isaiah. (Hearing record)
3. From [REDACTED] 2020 to [REDACTED] 2020, the Appellant lost power to her home due to Tropical Storm Isaiah. As a result of the storm, the Appellant lost food purchased with her SNAP benefits. (Appellant testimony)
4. On [REDACTED], 2020, the Department received both W-1225 (Request for SNAP replacement) and W-1226 (Proof of food loss- Collateral contact) forms. The Appellant requested SNAP replacement of \$303.55. (Exhibit 1- W-1225 (page 2 of 3), Request for replacement of food purchased with SNAP benefits and Exhibit 2- W-1226, (page 3 of 3), Proof of food loss- Collateral contact form)
5. The W-1225 showed the Appellant's attestation that she had lost power and water from Tuesday to Friday. The attestation identified the Appellant, her address and her client identification number. (Exhibit 1, page 2 of 3)
6. The W-1226, Proof of food loss- Collateral contact form indicated a spot where the Appellant was to provide her name, client identification number and specifically states to write the address of her residence; none of which were filled out by the Appellant. However, her family attorney and neighbor, did identify the Appellant by name and did specify that she lost food due to power outage in the "Declaration of food loss by Collateral Contact". (Exhibit 2, page 3 of 3)
7. Both the W-1225 and the W-1226 had the Appellant's client number written on the upper right- hand corner of the form. (Exhibits 1 and 2)
8. It is unclear by the hearing record, if the Appellant wrote the client identification number on the forms herself or if the Department wrote the client identification number on the forms. (Exhibits 1 and 2)

9. On [REDACTED] [REDACTED] 2020, the Department processed the Appellant's request for SNAP replacement. (Hearing record)
10. On [REDACTED] 2020, the Department issued an NOA denying the Appellant's request because she did not report her food loss to DSS by [REDACTED] 2020. (Exhibit 5, NOA)
11. The deadline for requesting SNAP replacement benefits was [REDACTED] [REDACTED] 2020. (Exhibit 1- Case notes, Field Operations Communications [REDACTED] 2020 and [REDACTED] 2020)
12. The Department indicates that the reason for denial was two-fold. 1) the W-1225 did not provide a date as to when the disaster occurred, instead it mentioned that the power outage was from Tuesday to Friday; and 2) because the W-1226 did not have the client's name, client id nor address, though the client's name was represented in the "Declaration of Food Loss" section of the form; the Department concluded that the forms were incomplete. (Department hearing summary and testimony)
13. There is no evidence in the Notice of Action that this was the reason the Appellant was denied replacement SNAP benefits due to Tropical Storm Isaiah. (Exhibit 5, NOA)
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 fair hearing. The Appellant requested an administrative hearing on [REDACTED] [REDACTED] 2020; the closing of the record was delayed 4 days for the submission of additional information therefore, this decision is due not later than [REDACTED] 2020 and is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 (7) 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 CFR § 274.6 (a) (1) pertains to *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. UPM 6530.50 (D) (2) provides that requests for replacement of eligible foods which are destroyed in a disaster must be filed within 10 calendar days of the incident.
4. UPM 6530.50 (E) provides that replacement benefits for destroyed eligible foods are provided once per occurrence of a disaster.
5. Title 7 CFR § 274.6 (a) (3) (i) provides for *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.
6. Title 7 CFR § 274.6 (a) (4) *Household statement of loss*. (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.
7. Title 7 CFR § 274.6 (6) (ii) (7) (i) pertains to documentation and reconciliation of replacement issuances and provides that the State agency shall document in the household's case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household statement required in paragraph (a)(4) of this section.
8. **The hearing record shows that the Appellant appropriately provided the Department a statement of loss form W-1225 and proof of loss of food through collateral contact form W-1226 on [REDACTED] 2020.**
9. UPM §1505.05 (C) provides that the Department must tell the assistance unit what the unit must do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

The Department did not inform the Appellant what was needed on the W-1225 or the W-1226 submitted to the Department on [REDACTED] 2020, thus denying her the opportunity to make whatever corrections were needed on the forms.

10. Field Operations Communications of [REDACTED] 2019 and [REDACTED] 2020 issued general guidance pertaining to the rules regarding replacement of SNAP benefits due to a storm. Clients must report, either orally or in writing, the loss of SNAP benefits within ten (10) days of the date of disaster or misfortune.

11. Title 7 CFR 274.6 (a) (4) (ii) provides 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.
12. Title 7 CFR 274.6 (a) (5) *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.
13. Field Operations Communications of [REDACTED] 2020 indicated an FNS waiver that extends the reporting of the loss of food from 10 days to 30 days expiring on [REDACTED], 2020.
14. **The hearing record shows that the Appellant submitted her request for SNAP replacement on [REDACTED], 2020; which is within the 30 days allowed in accordance with the FNS waiver established in the Field Operations Communications of [REDACTED] 2020.**
15. **The Department incorrectly determined that the Appellant reported loss of food due to Storm Isaiiah after [REDACTED] 2020.**
16. **The Department incorrectly determined that the Appellant did not submit a timely request for SNAP replacement to the Department.**
17. **The Department incorrectly denied the replacement SNAP benefits as the request was received timely by the Department.**

DISCUSSION

Tropical storm Isaiiah hit the state of Connecticut on Tuesday, [REDACTED] 2020. There were no other storms identified in the state of Connecticut in the month of [REDACTED] 2020. It was the reason why the Department of Social Services issued directives for SNAP replacement benefits due to Tropical storm Isaiiah on [REDACTED], 2020 and [REDACTED] 2020.

The Department's hearing summary indicated the reason the Appellant was denied was because she failed to properly fill out the forms W-1225 and W-1226. The Department stated that the W-1225, although provided her name, address and client identification number, did not provide a date as to when the disaster occurred, but rather gave the days from Tuesday to Friday. Also, that W-1226 did not provide client name, client id number and did not provide an address, although the clients name was in Declaration of Food Loss" section of the form.

The evidence shows that the client was easily identifiable as the Appellant's name and the written client id# were on both the W-1225 and W-1226 forms.

The denial letter does not state that failure to complete the paperwork correctly was the reason why the Appellant was denied. Even if it were, the request for replacement was submitted early enough for the Department to let the Appellant know what was needed on the W-1225 and the W-1226. In this case, no such effort was made, thereby denying her the opportunity to rectify the paperwork.

The denial letter, in fact, indicated that she did not report food loss nor the W-1226 form by the due date of [REDACTED] 2020. The evidence and Departmental testimony show that the Appellant submitted the W-1225 and W-1226 on [REDACTED], 2020. The hearing record shows that the Appellant complied with the requirements in order to request SNAP replacement according to the timeline.

The Department did not process her request for replacement until [REDACTED] 2020; which is the day the Department denied her request and incorrectly stated that she applied after the [REDACTED] 2020 deadline. There was no mention of incomplete paperwork in the notice of action. I find it unreasonable for the Department to deny the Appellant's request for SNAP replacement based on the reason given on the hearing summary and based on the evidence, the Department incorrectly denied her request for SNAP replacement due to her not reporting her food loss by the deadline of [REDACTED] 2020.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department shall re-open the Appellant's request for SNAP replacement due to Tropical storm Isaiiah and process.
2. Compliance with this order is due to the undersigned by [REDACTED] 2020.



Almelinda McLeod
Hearing Officer

CC: Cheryl Stuart, SSOM, Norwich
Kristin Haggan, Fair Hearing liaison

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, 165 Capitol Avenue, 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.