

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

██████████
██████████
Request #165435

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

██████████ 2020, the Department of Social Services (the "Department") issued Neomy King (the "Appellant") \$38.00 in replacement of food purchased under the Supplemental Nutrition Assistance Program ("SNAP").

██████████, 2020, the Appellant requested an administrative hearing to contest the amount of such benefits.

██████████ ██████████ ██████████, 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.

██████████, 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 hearing was held telephonically with no objection from any of the parties. The following individuals called in for the hearing:

██
Javier Rivera, Department Representative
Veronica King, 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. She receives SNAP benefits for a household of one. (Hearing Record)
2. ██████████ 2020, the Appellant received an allotment of \$194.00 under the SNAP. (Exhibit 2: Benefit History)
3. ██████████, 2020, tropical storm Isaias hit the State of Connecticut, causing widespread and protracted power outages throughout the state. (Exhibit 3: Field Operations Communication ████████/20 and Hearing Record)
4. The Appellant incurred a loss of power due to storm Isaias resulting in the loss of refrigerated and frozen foods purchased with SNAP benefits. (Appellant's Testimony)
5. ██████████, 2020, the Department extended the timeframe in which a household must report misfortune resulting in food lost regarding the tropical storm Isaias to ████████/20. (Exhibit 3: Field Operations Communication, ████████/20)
6. ██████████, 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 \$38.80. $\$194.00 \times 20\% = \38.80 (Exhibit 1: Case Notes and Exhibit 2)
7. ██████████, 2020, the Department received a completed W1225 Request for Replacement of Food Purchased with SNAP Benefits form ("W1225") signed by the Appellant. The Appellant reported a loss greater than 20% of her total SNAP benefits. (Exhibit 1 and Appellant's Testimony)
8. ██████████, 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 that on ████████ ████████, 2020, the Appellant received 20% automatic SNAP replacement (\$38.80) and therefore she was not eligible to receive any additional

SNAP replacement. (Exhibit 1 and Department Representative's Testimony)

9. 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."

The Department correctly determined the loss of power due to storm Isais as a household misfortune under SNAP regulations.

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)

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.

The Department incorrectly did not request or inform the Appellant to provide a signed statement by someone out of the home, attesting to the household's loss.

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 the denial notice.

The Department incorrectly determined that that Appellant was not eligible to receive more than 20% of her SNAP month's allotment.

[REDACTED] [REDACTED], 2020, the Department incorrectly denied the Appellant's request for replacement of SNAP benefits due to a household misfortune.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department shall request from the Appellant a signed statement attesting to the household's loss by a non-member of the SNAP household.
2. The Department shall review the Appellant's request for additional replacement of food purchased with SNAP benefits due to a household misfortune. [\$194.00 [REDACTED] allotment - \$38.00 20% replacement = \$156.00 SNAP]
3. Compliance with this order should be forwarded to the undersigned no later than [REDACTED], 2020.

Veronica King

Veronica King
Fair Hearing Officer

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

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.