

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2021
Signature Confirmation

██████████
██████████
Request # 160866

NOTICE OF DECISION
PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

██████████, 2020, the Department of Social Services (the “Department”) issued a Notification of Overpayment and Recoupment to ██████████ (the “Appellant”), indicating she had been overpaid in Supplemental Nutrition Assistance Program (“SNAP”) benefits from the Department of Social Services (the “Department”) and that she must repay the overpayment.

██████████ ██████████ ██████████, 2020, the Appellant requested an administrative to contest the Department’s decision to recover such benefits.

██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings, (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2020.

██████████, 2020, the Appellant requested a reschedule.

██████████, 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 2020.

██████████, 2020, the Appellant requested a reschedule.

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██████████, 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2020.

██████████ 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. The hearing was held telephonically with no objection from any of the parties. The following individuals were present at the hearing:

██████████ the Appellant
██████████, Appellant's Husband
Theresa Rivera, Departments Representative
Veronica King, Hearing Officer

The hearing record remained open for submission of additional information from both parties. The hearing record closed on ██████████, 2021.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant was overpaid in SNAP benefits and that the Department must recover the overpaid benefits is correct.

FINDINGS OF FACT

1. In ██████████ 2018, the Appellant was receiving SNAP benefits for herself and three (3) minor children. The Appellant was also receiving cash benefits under the Temporary Family Assistance ("TFA") program. (Exhibit 11: NOA, ██████████/20 and Hearing Record)
2. On ██████████, 2018, the Department's child support unit received a call from the Appellant's divorce attorney. The attorney notified the child support unit that the non-custodial parent had giving \$1,100.00 per month in direct child support to the Appellant. (Exhibit 1: Case Notes and Hearing Record)
3. On ██████████, 2018, the Appellant went in person to the Department's regional office to report that she has been receiving money from ██████████ (the "non-custodial parent). The Appellant reported that the financial help started in ██████████ 2017. (Exhibit 1: Case Notes and Hearing Record)
4. On ██████████ 2018, the Department sent to the Appellant a W1348 Proofs We Need form requesting verification of several information including verification of when the financial help started and the amounts. (Exhibit 1 and Hearing Record)
5. In ██████████ 2018, the Department updated the system and entered the Appellant's \$1,100.00 per month in direct support. The Department established overpayment of SNAP benefits from ██████████/17 through ██████████/18 and overpayments of TFA benefits from ██████████/17 through ██████████/18. (Hearing Record)

6. On [REDACTED], 2018, the Department received a letter from the non-custodial parent dated [REDACTED]/18 showing the support given to the Appellant. The Appellant received the following financial support; \$1,000.00 [REDACTED]/16, \$1,700.00 [REDACTED]/17, \$1,700 [REDACTED]/17, \$1,700.00 [REDACTED]/17, \$1,200.00 [REDACTED]/17, \$1,400.00 [REDACTED]/18, \$1,400.00 [REDACTED]/18, \$1,400.00 [REDACTED]/18, \$1,400.00 [REDACTED] 18, \$1,400.00 [REDACTED] 18, \$1,400.00 [REDACTED]/18, \$1,400.00 [REDACTED]/18. The letter stated that effective [REDACTED]/18 he will be giving \$1,400.00 per month in financial support to the Appellant. (Exhibit 7: Request for verification and Verification of financial support and Hearing Record)
7. On [REDACTED] 2020, the Department's Over Payment Consultant reviewed the overpayments benefits history at the Appellant's case. The Department entered the exactly amount of the direct financial support received by the client retroactively in accordance with the letter received from the no-custodial parent in each of the months. (Hearing Record)
8. On [REDACTED] [REDACTED], 2020, the Department sent the Appellant a Notification of Overpayment and Recoupment. The notice stated that the Appellant received an overpayment of SNAP benefits from [REDACTED] 2017 through [REDACTED], 2018 of \$2, 075.00 due to a client error. The notice informs the Appellant of her repayment options and stated that if she does not agree to repay or she agree to repay but do not make payments, the Department may take action to recover the overpayment. (Exhibit 12: Notification of Overpayment and Recoupment, [REDACTED]/20)
9. On [REDACTED], 2020, the Department received from the Appellant the W3007 Repayment form. The Appellant signed and checked the option of Installment Payments on a regular monthly basis. She wrote that she would like to make payments of \$30.00 per month. (Exhibit 10: W-3007 Repayment form)
10. On [REDACTED] 2020, the Department of Administrative Services ("DAS"), sent a letter to the Appellant stating that the Department previously sent her notification of an overpayment of SNAP benefits that she received. The notice stated that as the Department had not received any payments from the Appellant, and no action has been taken, the overpayment debt with DSS was referred to DAS for collection. (Appellant's Exhibit A: DAS letters)
11. The Appellant had not made any payments towards her SNAP overpayment debt. (Appellant's Testimony and Appellant's husband's Testimony)
12. The Appellant is not disputing that she received an overpayment of SNAP benefits and not disputing the amount of such overpayment. (Appellant's Testimony, Appellant's husband's Testimony)
13. The Appellant understands and agrees that she must pay back the overpayment amount of SNAP benefits. (Appellant's Testimony, Appellant' husband's Testimony)

CONCLUSIONS OF LAW

1. Section § 17b-2 of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Section 17b-88 of the Connecticut General Statutes, authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayments and take such other action as conforms to federal regulations, including, but not limited, conducting administrative disqualification hearings.
3. “The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178(1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
4. Title 7 of Code of Federal Regulations (“CFR”) § 273.10(c)(1)(i) provides in relevant part “For the purpose of determining the household’s eligibility and level of benefits, the State agency shall take into account...any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period....In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average....”
5. UPM § 5005(A)(1) provides in relevant part the Department counts the assistance units available income, and that income is considered available if it is received directly by the assistance unit.

The Department correctly determined that the monthly financial support received by the Appellant from the no-custodial parent, must be counted when determining eligibility for SNAP benefits.

6. Title 7 of the CFR § 273.12(a)(1) provides in part that monthly reporting households are required to report as provided in § 273.21. Quarterly reporting households are subject to the procedures as provided in paragraph (a)(4) of this section. Simplified reporting households are subject to the procedures as provided in paragraph (a)(5) of this section.

Title 7 of the CFR § 273.12(a)(5) provides the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section. The following requirements are applicable to simplified reporting systems: (i) *Included households*. The State agency may include any household certified for at least 4 months within a simplified reporting system. (ii) *Notification of simplified reporting requirement*. At the initial certification, recertification and when the State agency transfers the households to simplified reporting, the State agency shall provide the household with the following: (A) A

written and oral explanation of how simplified reporting works; (B) For households required to submit a periodic report, a written and oral explanation of the reporting requirements including: (1) The additional changes that must be addressed in the periodic report and verified. (iii) Periodic report. (A) Exempt households. The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or have a disability with no earned income.

The Appellant's household is subject to simplified reporting requirements.

Title 7 of the CFR § 273.12(a)(5)(v) provides for *Reporting when gross income exceeds 130 percent of poverty*. A household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at §273.9(a)(1). The household shall use the monthly gross income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.

The Department correctly determined that the Appellant must informed the Department of her change in unearned income in a timely manner when her income exceeded 130% of the Federal Poverty Level.

7. Title 7 of the CFR § 273.18(a) provides in part a recipient claim is an amount owed because of benefits that are overpaid. The State agency must establish and collect any claim by following these regulations. The State Agency must develop a plan for establishing and collecting claims.
8. UPM § 7000.01 (A) provides the definition of an overpayment and states that an overpayment is the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount to which the unit is properly entitled.
9. UPM § 7045.05 (A) provides the Department recoups from the assistance unit which received the overpayment.
10. UPM § 7045.05 (C) provides for the participation of the assistance unit in the recoupment process. 1. The Department allows the assistance unit to participate in the recoupment process by: a. discussing the cause and amount of the overpayment with the Department; and b. negotiating with the Department in establishing a recoupment plan.

The Department properly allowed the Appellant an opportunity to participate in the recoupment process.

11. Title 7 of the CFR § 273.18(a) provides in part a recipient claim is an amount owed because of benefits that are overpaid. The State agency must establish and collect any claim by following these regulations. The State Agency must develop a plan for establishing and collecting claims.

12. Title 7 of the CFR § 273.18 (b) provides for types of claims. There are three types of claims: 1. Intentional Program violation (IPV) claim any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16. 2. Inadvertent household error (IHE) claim any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. 3. Agency error (AE) claim any claim for an overpayment caused by an action or failure to take action by the State agency.

The SNAP overpayments are considered client error in nature and must be repaid.

13. Title 7 CFR § 273.18 (c) (1)(i) provides for calculating the claim amount and provides that as a state agency , you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment. For an IPV claim, the claim must be calculated back to the month the act of IPV first occurred. For all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

14. UPM § 7045.10(A) provides that the Department recoups an overpayment or that part of an overpayment that occurs within the following periods. 2. The Department recoups an overpayment caused by unintentional recipient error if the overpayment occurred no earlier than 24 months prior to the month the Department discovers it.

15. Title 7 of the CFR §273.18 (c)(1) (ii)(A) and (C) provide that the actual steps for calculating a claim of overpayment are to determine the correct amount of benefits for each month that a household received an overpayment and subtract the correct amount from the amount actually received.

16. Title 7 of the CFR §273.18 (e)(3)(iv)(E) provides that the State Agency must include language as to how the claim was calculated.

17. UPM §7045.15 (A) provides for the computation of Food Stamps Overpayments and speaks to the general description of the process. The Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount the assistance unit should have received during that period.

The Department correctly calculated that the Appellant was overpaid \$2,075.00 in SNAP benefits from [REDACTED]/17 through [REDACTED]/18.

18. UPM § 7005.25 provides that if the error is an overpayment, the Department recoups by one or more of the following methods, after discussing the overpayment with the assistance unit and obtaining an agreement from the unit if possible: 1. Grant reduction for SNAP or cash assistance overpayments, only if the assistance unit is still receiving benefits; or 2. Installment payments by the assistance unit; or 3. Lump sum repayment by the assistance unit.

19. UPM § 7045.30(A) (1) (a) provides for recoupment by grant reduction and states in part that if an overpayment was caused by administrative error or unintentional program recipient error and the assistance's unit's grant is \$10 or more, the grant reduction is the largest of either (1) the amount of reduction requested by the assistance unit, (2) \$10 or (3) 10% of the allotment rounded down to the nearest dollar. (b) if the amount of the assistance unit's allotment is less than \$10 prior to

the calculation of grant reduction, the reduction is the full allotment and the issuance reduced to \$0.

20. UPM § 7045.30 (B) provides that for installment and other recoupment methods the monthly recoupment rate is at least the same amount which the Department could recoup through grant reduction.
21. Title 7 of the CFR §273.18 (a) (1) (i) provides for claims against households and states that a recipient claim is an amount owed because of benefits that are overpaid.
22. Title 7 of the CFR §273.18 (a)(2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.

The Department properly informed the Appellant of the recoupment methods available to her on [REDACTED] 2020.

The Department correctly determined that the Appellant was overpaid \$2,075.00 in SNAP benefits for the months of [REDACTED] 2017 through [REDACTED] 2018 and that she has an obligation to repay them.

DISCUSSION

The evidence indicates that the Appellant was receiving unearned income from the non-custodial parent and that the financial support must be counted when establishing eligibility for the SNAP benefits amount. Although it appears that the Appellant error was an unintentional, per the regulations, she is responsible for repaying such benefits. The Appellant testified during the hearing that she was in agreement with the Department's findings and was inquiring on repayment options. The Appellant is encouraged to contact the Department of Administrative Services to discuss her repayment options.

DECISION

The Appellant's appeal is **DENIED**.

Veronica King

Veronica King
Hearing Officer

Cc: Jamel Hilliard, Operations Manager, DSS, Waterbury Regional Office
Theresa Rivera, Fair Hearing Liaison, DSS, Waterbury Regional Office

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, law, and 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, if 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 06105-3725. 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.