

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

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

Client ID ██████████
Case ID ██████████
Request # 162870

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, the Appellant requested a continuance which OLCRAH granted.

On ██████████ ██████████ 2020, the 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 record remained open for an additional 7 days for the submission of evidence from the Appellant. The record was scheduled to close on [REDACTED] 2020.

On [REDACTED], 2020, the Appellant submitted a request for additional time to submit additional evidence which the hearing officer granted. The record remained open for an additional eight (8) days closing on [REDACTED], 2020.

The following individuals called in for the hearing:

[REDACTED], Appellant
Amy MacDonough, 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 SNAP benefits used to purchase food lost due to the loss of power after storm Isaias under the SNAP was correct.

FINDINGS OF FACT

1. The Appellant is a recipient of benefits under the SNAP for a household of two: himself [REDACTED] the "child". (Hearing Record)
2. The Department closed the Appellant's benefits under the SNAP effective [REDACTED] 2020 because the SNAP recertification process was not completed. (Appellant's Testimony and Exhibit 1: Case Notes)
3. For the period [REDACTED] 2020 through [REDACTED] 2020, the Appellant incurred a loss of power due to storm Isaias resulting in the loss of food purchased with [REDACTED] 2020 SNAP benefits. (Appellant's Testimony)
4. On [REDACTED], 2020, the Appellant reported to the Department during the telephone recertification interview that he incurred food loss due to storm Isaias. (Appellant's Testimony and Exhibit 1: Case Notes)
5. On [REDACTED] 2020, the Department mailed forms W1225 Request for Replacement of Food Loss ("W1225") and W1226 Documentation of Food Loss ("W1226") forms to the Appellant. (Department Representative's Testimony and Exhibit 1: Case Notes)
6. On [REDACTED] 2020, the Department recertified the Appellant's benefits under the SNAP effective [REDACTED] 2020 and issued the Appellant SNAP

- benefits totaling \$355.00, the maximum monthly allotment allowed for a household of two. (Department Representative's Testimony and Exhibit 1: Case Notes)
7. The Appellant received forms W1225 and W1226. (Appellant's Testimony)
 8. The Department did not receive a signed statement or forms W1225 and W1226 from the Appellant as proof of food loss due to the power outage. (Department Representative's Testimony and Exhibit 1: Case Notes)
 9. On [REDACTED] 2020, the Department informed the Appellant his request for replacement of food purchased was denied because the Appellant failed to submit proof of the food loss by the [REDACTED] 2020 deadline. (Exhibit 1: Case Notes and Department Representative's Testimony)
 10. As of the closing of the hearing record on [REDACTED] 2020, no additional evidence was received from the Appellant.

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)

On [REDACTED] 2020, FNS approved Connecticut's request to waive timely reporting of food loss for households in Connecticut. This waiver approval allows households to make a request for replacement of SNAP benefits through [REDACTED] 2020. These replacement SNAP benefits will allow

household to replace food lost as a result of Tropical Storm Isaias and power outages that began on [REDACTED] 2020. [REDACTED]

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

7. The Appellant had until [REDACTED] 2020 to report to the Department that he suffered a food loss, because the Department obtained a waiver from FNS extending the time limit to request replacement of SNAP benefits due to a household misfortune or disaster from ten (10) days to thirty (30) days as specified in 7 C.F.R. § 274.6(a)(1). The Department correctly determined the Appellant's verbal report of food loss on [REDACTED], 2020 via telephone as timely.

8. The Department correctly denied the Appellant's request for replacement of SNAP benefits due to a household misfortune because the Appellant failed to submit a signed statement attesting to the loss within 10-day deadline as specified in 7 C.F.R. § 274.6(a)(4)(ii). Before replacement benefits can be issued, the household must formalize the request in writing within ten (10) days of making the oral request.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: Brian Sexton, DSS #50
Amy MacDonough, DSS #50

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.