

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

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

██████████
██████████
Request # 170250

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

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

On ██████████, 2020, the Appellant requested an administrative hearing to contest the recoupment of the overpayment.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, 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 participated in the hearing:

██████████, Appellant
Taneisha Hayes, Department’s Representative
Carla Hardy, Hearing Officer

Due to the COVID-19 Pandemic, the hearing was held as a telephonic hearing.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's determination that the Appellant was overpaid SNAP benefits and that the Department must recover the overpaid benefits is correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2019, the Appellant began receiving \$264.00 weekly in unemployment compensation benefits ("UCBs"). (Department's Testimony)
2. The Appellant received SNAP benefits since [REDACTED] 2020. (Exhibit 6: NOA, [REDACTED] 20)
3. Effective [REDACTED] 2020, the Appellant received 600.00 weekly in gross federal UCBs. (Exhibit 8: UCB Details; Department's Testimony)
4. Effective [REDACTED] 2020, the Appellant received \$176.00 weekly in gross state UCBs. (Exhibit 8)
5. Effective [REDACTED] 2020, the Appellant received \$776.000 weekly in gross UCBs. (Facts 3 and 4)
6. Between [REDACTED] 2020, through [REDACTED], 2020, the Appellant received seven UCB checks. The gross amount of each check equaled \$776.00. The Appellant received \$5,432.00 ($\$776.00 \times 7 = \$5,432.00$) in UCB income in [REDACTED] 2020. (Exhibit 8)
7. Between [REDACTED] 2020 through [REDACTED] 2020, the Appellant received four UCB checks. The gross amount of each check equaled \$776.00. The Appellant received \$3,104.00 ($\$776.00 \times 4 = \$3,104.00$) in UCB income in [REDACTED] 2020. (Exhibit 8)
8. On [REDACTED] 2020, the Appellant received his last \$600.00 federal UCB check. (Exhibit 8)
9. Effective [REDACTED] 2020, the Appellant's UCBs were reduced to \$176.00 weekly. (Exhibit 8)
10. Between [REDACTED] 2020, through [REDACTED], 2020, the Appellant received five UCB checks. The gross amount of each check equaled \$176.00. The Appellant received \$880.00 ($\$176.00 \times 5 = \880.00) in UCB income in [REDACTED] (Exhibit 8)
11. On [REDACTED] 2020, the Department received the Appellant's Renewal Form. The Appellant did not report his receipt of UCBs. (Exhibit 3: PRF; Exhibit 10: Case Notes)
12. On [REDACTED] 2020, the Department reviewed the Appellant's Renewal Form that he submitted to the Department on [REDACTED] 2020. They checked the UCB interface

and verified that the Appellant received a combination of state and federal UCBs from [REDACTED] 2020 through [REDACTED] 2020. (Exhibit 10: Case Notes; Hearing Summary)

13. The Appellant received the following SNAP benefits:

MONTH	AMOUNT RECEIVED
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00

(Exhibit 7: Notice of Overpayment and Recoupment, [REDACTED]/20; Exhibit 14: Benefit Issuance)

14. On [REDACTED] [REDACTED] 2020, the Department's Claims Unit approved a \$567.00 overpayment from [REDACTED] 2020 through [REDACTED] 2020. (Exhibit 10)

15. On [REDACTED] 2020, the Department issued a Notification of Overpayment and Recoupment notice to the Appellant informing him that he was overpaid SNAP benefits in the amount of \$567.00 for the period of [REDACTED] 2020 through [REDACTED] 2020 due to an administrative error. (Exhibit 7: Notification of Overpayment and Recoupment, [REDACTED]/20)

16. In [REDACTED] 2021, the Appellant was 41 years old. (Exhibit 10: Case Notes)

17. There was no evidence presented at the hearing indicating that the Appellant is disabled. (Hearing Record)

18. 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 hearing. The Appellant requested an administrative hearing on [REDACTED] 2020. Therefore, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Conn. Gen. Stat provides, in pertinent part, as follows:

“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.” Conn. Gen. Stat. § 17b-2.

2. Section 17b-3 of the Conn. Gen. Stat provides, in pertinent part, as follows:

“The Commissioner of Social Services shall administer all law under the jurisdiction of the Department of Social Services.” Conn. Gen. Stat. § 17b-3.

3. If a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and shall consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

Conn. Gen. Stat. § 17b-88

4. Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in § 273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).
7 CFR § 273.9(a)
5. "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)).
6. Income eligibility for the SNAP program is determined either through the use of the SNAP gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance or SSI.

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:

- a. Include one or more persons who are elderly or disabled; or
 - b. Are categorically eligible for SNAP benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Supplemental Nutritional Assistance Program Applied Income Limit ("SNAPAIL") for the number of persons in the needs group:
- a. If the unit's total gross income exceeds the standard, the unit is not eligible for SNAP benefits.
 - b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.

B. Applied Income Eligibility Test

1. Income eligibility is determined on the basis of the assistance unit's total monthly applied income:
- a. Including those units which are not subjected to the Gross Income Eligibility Test; and
 - b. Excluding those units which are considered categorically eligible for FS benefits.
2. The unit's total monthly applied income is compared to an amount equal to the Food Stamp Applied Income Limit for the respective unit size:
- a. If the total applied income exceeds the FSAIL, the unit is not eligible for Food Stamps benefits.
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.

C. Categorical Eligibility Test

Those assistance units which qualify as categorically eligible are not subjected to gross or applied income eligibility tests.

UPM § 5520.40

7. "The State agency, at its option, may extend categorical eligibility to the following households . . ."
- (A) "Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant . . ."
 - (B) "Subject to FNS approval, any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE

purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant . . .”

7 CFR § 273.2(j)(2)(ii)

8. Households in Connecticut with incomes below 185% of the federal poverty level qualify for the State’s “Help for People in Need” program, which meets the requirements outlined in 7 CFR § 273.2(j)(2)(ii), allowing the Department to extend broad-based categorical eligibility for SNAP to all such qualifying households.
9. Effective October 2019, 185% of the Federal Poverty Level for Extended Categorical Eligibility for a household of one person was \$1,968.00.
10. Household income shall mean all income from whatever source excluding items specified in paragraph (c) of this section. 7 CFR § 273.9(b)

Unearned income shall include, but not be limited to annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in §272.12. 7 CFR § 273.9(b)(2)(ii).

UPM § 5005(A) provides that the Department counts the assistance unit’s available income, except to the extent that it is specifically excluded. Income is considered available if it is:

1. Received directly by the assistance unit; or
2. Received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
3. Deemed by the Department to benefit the assistance unit.

In computing income received in past months, the Department uses the exact amount of the unit’s available income received or deemed in the month. UPM § 5025.05(A)(1).

The Department correctly included the Appellant’s UCB income in the Appellant’s calculation for SNAP benefits.

The Department correctly determined that the Appellant’s gross income exceeded the \$1,968.00 gross income limit for █████ 2020 and █████ 2020.

The Department correctly determined that the Appellant was not eligible for SNAP benefits in █████ 2020 and █████ 2020.

11. Title 7 C.F.R. § 273.9(d)(1) & (2) provides for standard deductions and earned income deductions.

UPM § 5045.15 provides that the amount of applied income upon which the level of SNAP benefits is based is calculated in the following way:

- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 1. the actual amount of self-employment expenses, if applicable; and
 2. any earned income deductions approved by the Social Security Administration in regard to individual self-support plans (Cross reference: 5035.15); and
 3. a deduction of 20% of the gross earnings for personal employment expenses.
- B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
- C. The amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:
 1. a deduction for farming losses, if any;
 2. a disregard of \$167.00 per month; {effective October 1, 2019}
 3. a deduction for unearned income to be used to fulfill a bona-fide plan to achieve self-support (PASS); Cross reference: 5035.15
 4. the appropriate deduction for work related dependent care expenses;
 5. deduction for allowable medical expenses for those assistance unit members who qualify;
 6. a deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
 7. a deduction for shelter hardship, if applicable.
(Cross References: 5030 - "Income Disregards" and 5035 "Income Deductions")
- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

12. Title 7 C.F.R. § 273.9(d)(6)(ii) provides for excess shelter deduction.

UPM § 5035.15(F)(1) provides for the calculation of the shelter hardship for the SNAP and states in part that the amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:

- a. rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings.

13. Title 7 C.F.R. § 273.9(d)(6)(iii) provides for the standard utility allowances.

UPM § 5035.15(F)(6) provides that a standard utility allowance determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:

- a. the assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
- b. the bill is established on the basis of individualized metering of service to the unit; or

- c. the costs are paid:
- (1) totally or partially by the unit; or
 - (2) partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit's total monthly heating or cooling costs; or
 - (3) totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.

14. The Standard Utility Allowance is \$736.00 effective October 1, 2019.

15. Title 7 C.F.R. § 271.2 provides for the maximum shelter deduction.

UPM § 5035.15(F)(10) provides that for those units which do not have any members who are elderly or disabled, a maximum shelter hardship is revised annually effective October 1. (Maximum shelter hardship effective October 1, 2019, is \$569.00).

16. Title 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

UPM § 6005(C) provides that in the SNAP, the amount of benefits is calculated by: (1) multiplying the assistance unit's applied income by 30%; and (2) rounding the product up to the next whole dollar if it ends in 1-99 cents; and (3) subtracting the rounded product from the Food Stamp standard of assistance for the appropriate unit size.

17. Effective [REDACTED] 2020, the Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

INCOME	
Earned Income	\$0.00
Less 20 percent	-\$0.00
= Adjusted earned income	\$0.00
+ Unearned income	\$880.00
= Total income	\$880.00
- Standard deduction	-\$167.00
- Medical expenses	-\$0.00
-Dependent care expenses	-0.00
=Adjusted gross income	\$713.00
SHELTER COSTS	
Rent	\$0.00
+ SUA	\$0.00
Total shelter costs	\$0.00
SHELTER HARDSHIP	
Shelter costs	\$0.00

Less 50% of adjusted gross income	<u>-\$356.50</u>
= Total shelter hardship (max \$569 if not disabled or elderly)	\$0.00
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$713.00
Less shelter hardship	<u>-0.00</u>
Net Adjusted Income (NAI)	\$713.00
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for one person	\$194.00
Less 30% of NAI (rounded up to nearest whole dollar)	<u>-\$214.00</u>
SNAP award	\$0.00

18. Title 7 CFR § 273.10(e)(2)(ii)(C) provides that all eligible one and two person households shall receive minimum monthly allotments equal to the minimum benefit.

UPM § 6020.15(C)(2)(a) provides that benefit payments are issued to SNAP assistance units consisting of 1 or 2 members which have a calculated benefit amount of less than the minimum amount established by the Food and Nutrition Act of 2008, which is equal to 8% of the cost of the thrifty food plan for the household containing one member, rounded to the nearest whole dollar increment.

The thrifty food plan for one person is \$194.00. Eight percent of \$194.00 is \$15.00 (\$194.00 x 8% = \$15.00 rounded to the nearest whole dollar)

The Department correctly determined that the Appellant was eligible for \$15.00 in [REDACTED] 2020.

19. The State Agency must include language as to how the claim was calculated. 7 CFR § 273.18(e)(3)(iv)(E).

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. UPM § 7000.01.

The Department recoups from the assistance unit which received the overpayment. UPM § 7045.05 A. 1.

Section 7045.05 of the UPM 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.

UPM § 7045.05 C. 1. a. and b.

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

20. UPM § 7045.10(A) provides that the Department recoups an overpayment or that part of an overpayment which occurs within the following time periods:

1. The Department recoups an overpayment caused by an administrative error if the overpayment occurred no earlier than 12 months prior to the month the Department discovers it.

The Department correctly determined that a SNAP overpayment occurred [REDACTED] 2020 through [REDACTED] 2020.

The Department correctly determined the amount of the overpayment for [REDACTED] 2020 through [REDACTED] 2020.

21. A recipient claim is an amount owed because of overpaid benefits. 7 CFR § 273.18(a)(1)(i).

22. The State agency must establish and collect any claim by following these regulations. 7 CFR § 273.18(a)(3).

23. Title 7 of the CFR § 273.18(b) provides for the three types of claims:

- (1) Intentional Program Violation (IPV) claim is 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 is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
- (3) Agency error (AE) claim is any claim for an overpayment caused by an action or failure to take action by the State agency.

7 CFR § 273.18(b)

The SNAP overpayments are considered an AE and must be repaid.

24. 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. 7 CFR § 273.18(c)(1)(ii)(A) and (C).

The Department computes the amount of the overpayment by comparing the amount of the benefit that 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. UPM § 7045.15 A.

25. 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. 7 CFR § 273.18(a)(2).

The Department recoups from the assistance unit which received the overpayment. UPM § 7045.05(A)(1).

26. The State Agency must include language as to how the claim was calculated. 7 CFR § 273.18(e)(3)(iv)(E).

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.

UPM § 7005.25 B.

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

27. UPM Section 7045.30 provides, in pertinent part, for the following:

A. Grant Reduction Recoupment

The amount of the monthly reduction depends upon the assistance unit's current entitlement and upon the cause of the overpayment.

1. If the overpayment was caused by administrative error or unintentional or unintentional recipient error, the recoupment rate is computed as follows:
 - a. If the grant prior to reduction is \$10 or more the grant reduction is the largest of the following:
 - (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.

UPM § 7045.30 A. 1.

28. For installment and other recoupment methods, the monthly recoupment rate is at least the same amount which the Department could recoup through grant reduction. UPM § 7045.30 B.

The Department was correct when it determined that the Appellant was overpaid SNAP benefits and that he has an obligation to repay them.

On [REDACTED] 2020, the Department was correct when it issued a notice to the Appellant informing him of the \$567.00 SNAP overpayment and his obligation to repay it.

DECISION

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


Carla Hardy
Hearing Officer

Pc: Musa Mohamud, Judy Williams, Jessica Carroll, Jay Bartolomei, Taneisha Hayes,
Department of Social Services, Hartford 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 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.