

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

Case # ██████████
Client ID # ██████████
Request # 173424

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Overpayment and Recoupment proposing to recoup an overpayment of his Supplemental Nutrition Assistance Program (SNAP) benefit from ██████████ 2020 to ██████████, 2021 in the amount of \$913.00.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department’s decision to recoup such benefits.

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 were present at the hearing:

██████████, Appellant
Jerrett Wyant, Department Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED] 2020, the Appellant, a [REDACTED] year old individual applied for SNAP benefits for a household of one. The Appellant is not disabled. (Hearing record)
2. The Appellant reported his only income was from the Department of Labor, Unemployment Compensation Benefit (“UCB”) at \$255.00 per week. (Hearing record)
3. On [REDACTED] 2020, the Appellant received a W-3015, “Your information does not match” letter because the Department of Labor showed income in the last two quarters. (Exhibit 4, Case Notes)
4. On [REDACTED], 2020, The Appellant called the Department and reported he was no longer employed with [REDACTED]. He reported getting UCB in his [REDACTED], 2020 SNAP application. (Hearing record and Exhibit 4, Case Notes)
5. On [REDACTED] 2021, the Department noted that the last day the Appellant worked with [REDACTED] was previously verified and as of [REDACTED] 2020, the Appellant was receiving \$255 per week. (Department testimony and Exhibit 4)
6. The Department acknowledged that the Department did not update the Impact system to show the Appellant’s UCB income of \$255.00 when he applied in [REDACTED] 2020. (Department testimony and Exhibit 4)
7. On [REDACTED] 2021, the Department manually updated the Impact system indicating the Appellant received \$255.00 per week from [REDACTED], 2020 and \$161.00 per week effective [REDACTED] 2020. (Hearing record, Exhibit 2- UCB Details and Exhibit 4)
8. On [REDACTED], 2021, the Department’s claims unit determined the Appellant exceeded the 130% federal poverty level (“FPL”) in the month of [REDACTED] 2020. The Appellant had until [REDACTED] 2020 to report the income to the Department. The Department determined the Appellant was overpaid in SNAP benefits from [REDACTED] 2020 to [REDACTED] 2021. (Hearing record and Exhibits 1 and 4)

9. In the month of [REDACTED] 2020, the Appellant received the following in UCB benefits:

Pay date	Amount Paid
[REDACTED] 2020 for [REDACTED], 2020	\$600.00
[REDACTED] 2020 for [REDACTED], 2020	\$600.00
[REDACTED] 2020 for [REDACTED] 2020	\$600.00
[REDACTED] 2020 for [REDACTED] 2020	\$855.00
[REDACTED], 2020 for [REDACTED] 2020	\$855.00
[REDACTED], 2020 for [REDACTED], 2020	\$855.00
[REDACTED] 2020 for [REDACTED] 2020	\$855.00
Total:	\$5220.00

(Exhibit 2, UCB details)

10. As of [REDACTED] 2019, the threshold for reporting income changes over 130% FPL for a household of one was \$1354.00. (Income limit & Standards)
11. In [REDACTED] 2020, the Appellant's UCB of \$5220.00 exceeded \$1354.00. (Exhibit 2, UCB details)

12. The Appellant received the following SNAP benefits.

Month	SNAP received
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$204.00
[REDACTED] 2020	\$204.00
[REDACTED] 2020	\$204.00
[REDACTED] 2021	\$204.00
Total:	\$1398.00

(Exhibit 1, W-0058N)

13. The Department determined the Appellant was eligible to receive the following in SNAP benefits.

Month	SNAP Overpayment
[REDACTED] 2020	\$0.00
[REDACTED] 2020	\$91.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$91.00
[REDACTED] 2020	\$0.00
[REDACTED] 2020	\$109.00
[REDACTED] 2021	\$0.00
Total:	\$485.00

(Exhibit 1-W-0058N)

14. The Department determined the Appellant was overpaid in SNAP benefits in the following amounts.

Month	SNAP Overpayment
██████████ 2020	\$194.00
██████████ 2020	\$103.00
██████████ 2020	\$0.00
██████████ 2020	\$113.00
██████████ 2020	\$204.00
██████████ 2020	\$95.00
██████████ 2021	\$204.00
Total:	\$913.00

(Exhibit 1, W-0058N)

15. On ██████████ ██████████ 2021, the Department issued a Notice of Overpayment and Recoupment letter (W-0058N) to the Appellant, indicating that he had been overpaid in SNAP benefits from ██████████ 2020 to ██████████, 2021 in the amount of \$913.00 and that the Department intended to recoup the overpayment. The notice included language regarding repayment options which included a W-3007 Repayment Form with a due date of ██████████, 2021. (Exhibit 1, W0058N)
16. If by ██████████ 2021, the Appellant has not chosen a repayment plan, then the Department will automatically reduce his SNAP benefits by 10% or \$10.00 per month until the overpayment has been paid in full effective ██████████ 2021. (Department testimony and Exhibit 1)
17. The Appellant testified that there must be a misunderstanding because he reported receiving the UCB income in his application and has never deviated from that report. He is confused why he received such notice and is responsible for the recoupment of \$913.00 in SNAP benefits. As of the day of this hearing, the Appellant had not chosen a repayment plan. (Hearing record and Appellant testimony)
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 fair hearing. The Appellant requested an administrative hearing on ██████████ 2021; therefore, this decision is due not later than ██████████ 2021.

CONCLUSIONS OF LAW

1. Section 17b-2 (7) of the Connecticut General Statutes, provides 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. 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. Title 7 of the CFR § 273.12(a)(5) provides that the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (1) (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.
4. **The Department correctly determined the Appellant is subject to simplified reporting requirements.**
5. 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.
6. Title 7 of the CFR 273.12 (a) (2) provides in part, for households subject to simplified reporting, the household must report changes no later than 10

- days from the end of the calendar month in which the change occurred, provided that the household receives the payment with at least 10 days remaining in the month.
7. Program Information Bulletin 08:06 provides that the SNAP household is required to report mandatory changes by the 10th day of the month following the month that the change occurred.
 8. **The Department correctly determined that the Appellant was obligated to inform the Department of any change in any income when the income exceeded 130% of the Federal Poverty Level.**
 9. **The Department correctly determined the Appellant exceeded the 130% in █████ 2020; therefore, the Appellant had until the 10th day of the following month, in this case, the month of █████ 2020, to report the income.**
 10. **The Department correctly determined that because the regulations state the Appellant had until █████ 2020 to report that the UCB income had exceeded the 130% FPL, there is no overpayment for the month of █████ 2020 or █████ 2020.**
 11. Title 7 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. "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)).
 13. UPM § 7045.05 (A) provides the Department recoups from the assistance unit which received the overpayment.
 14. 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.
 15. Title 7 of the CFR § 273.18 (B) provides for the 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) is any claim for an overpayment caused by an action or failure to take action by the State agency.

16. UPM § 7005.10 (A) (1) (2) provides in part that the Department classifies errors as agency, recipient or provider caused. If an overpayment is caused by the assistance unit, the Department makes a preliminary determination regarding whether the error was intentional or unintentional, and whether to pursue a legal action against the assistance unit on fraud charges.
17. UPM § 7005.10 (B) (4) provides that agency errors which cause overpayments include but are not limited to making a data error or other processing error.
- 18. The Department admittedly failed to upload the UCB income reported at the time of application; therefore, this error is part agency error (“AE”).**
- 19. The Appellant had the responsibility to report when the UCB income exceeded the 130% FPL to the Department; therefore, this error is part client error, (“CE”).**
- 20. Despite whether the error is considered AE or CE, the SNAP overpayment is valid and therefore must be repaid.**
21. 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.
22. 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.
23. 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.
24. UPM § 7005.15 (A) provides that the Department computes the amount of error by comparing the amount of benefits the assistance unit should have received to the amount of benefits the assistance unit actually received for a particular month or series of months.

25. UPM § 7045.15 (B) (1) (2) pertains to the benefits due the assistance unit and provides, the Department follows the policy outlined in Sections 5500 and 6000 to compute the amount of benefits the assistance unit should have received. The Department first evaluates the assistance unit's prospective eligibility for the month and then evaluates the correctness of the Food Stamp allotment received in that month by using the budgeting method in effect at the time the overpayment occurred.
- 26. The Department correctly determined what the Appellant received \$1398.00 in SNAP benefits from [REDACTED] 2020 to [REDACTED] 2021.**
- 27. The Department correctly determined the Appellant should have received \$485.00 in SNAP benefits based on the Appellant's UCB income from [REDACTED] 2020 to [REDACTED] 2021.**
- 28. The Department correctly determined the Appellant was overpaid \$913.00 in SNAP benefits from [REDACTED] 2020 to [REDACTED], 2021.**
29. 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.
30. 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.
31. UPM 7045.10 (A) (2) provides that the Department recoups an overpayment or that part of an overpayment that occurs within the following periods: 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.
- 32. The Department correctly proposed recoupment of the SNAP overpayment as it was discovered on [REDACTED], 2021 which was within 24 months of the occurrence.**

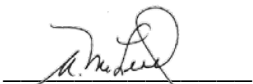
33. UPM § 7045.05 (C) provides for the participation of the assistance unit in the recoupment process. 1. The Department allows the assistance unit to participate in the recoupment process by: a. discussing the cause and amount of the overpayment with the Department; and b. negotiating with the Department in establishing a recoupment plan.
- 34. The Department correctly determined that the Appellant was overpaid in SNAP benefits and has an obligation to repay them.**
- 35. The Department correctly calculated that the Appellant was overpaid \$913.00 in SNAP benefits from [REDACTED] 2020 to [REDACTED] 2021 (\$1398- \$485).**
- 36. The Department correctly provided the Appellant the opportunity to discuss the amount of the overpayment and negotiate the repayment options with the Department.**
- 37. The Department correctly issued a notice to the Appellant informing him of the \$913.00 SNAP overpayment and his obligation to repay it.**

DISCUSSION

The Department failed to include the UCB income when the Appellant reported it when he applied in [REDACTED] 2020. I feel the Department is partially to blame in this overpayment. Since the Appellant reported the UCB at application time; there was nothing new to report. However, regulations states that the Appellant had certain responsibilities while receiving SNAP benefits. One of those responsibilities was to report income exceeding 130% FPL for a household of one. Whatever the reason for not reporting the excess income above 130% FPL to the Department, it was clear that the error was unintentional. The fact remains that the Appellant received federal SNAP benefits he was not entitled to receive, and the Department has the right to recoup the SNAP overpayment. The Department is upheld.

DECISION

The Appellant's appeal is DENIED


Almelinda McLeod
Hearing Officer

CC: Patricia Ostroski, SSOM New Britain
Jerrett Wyant, Fair Hearing Liaison, New Britain

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 06105 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.