

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 ID ██████████
CLIENT ID # ██████████
Hearing ID # 181381

NOTICE OF DECISION
PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) advising her of an overpayment with regards to her Supplemental Nutrition Assistance Program (“SNAP”) benefits issued from ██████████ 2021 through ██████████ 2021 in the amount of \$2,346.00 and advising her that she must repay the overpayment.

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, at the Appellant’s request OLCRAH issued a Notice rescheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, at the Appellant’s request OLCRAH issued another Notice rescheduling the administrative hearing for ██████████, 2021. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic

On [REDACTED] 2019, 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. The following individuals participated in the hearing:

[REDACTED], Appellant
Althea Forbes-Francis, Department's Representative
Swati Sehgal, Hearing Officer

The record remained open for submission of additional information from the Department. Information was received. The record closed on [REDACTED] 2021.

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. The Appellant was receiving SNAP benefits for herself and her three children. (Exhibit 4: Notice of Action, [REDACTED]/21)
2. On [REDACTED] 2021, the Appellant and her family moved to [REDACTED], she contacted the Department and reported change of her address to [REDACTED]. (Hearing Summary, Appellant's Testimony)
3. The Department erroneously did not close the Appellant's SNAP benefits. (Department's Testimony)
4. The Department issued \$782 a month in SNAP benefits to the Appellant's Electronic Benefits Transfer ("EBT") card for months of [REDACTED], [REDACTED] and [REDACTED] 2021. (Exhibit 2: Benefit issuance Search Result Printout)
5. The Appellant used those SNAP benefits in [REDACTED]. (Appellant's Testimony)
6. On [REDACTED] 2021, the Appellant again contacted the Department to report her move to [REDACTED]. (Hearing Summary)
7. On [REDACTED], 2021, the Department changed the Appellant's address and closed her SNAP benefits effective [REDACTED], 2021, and issued a NOA informing the Appellant of that. (Exhibit 4: NOA, [REDACTED]/21)
8. On [REDACTED] 2021, the Department updated the Appellant's address from [REDACTED] [REDACTED] 2021, the date the Appellant originally reported change of her address. The

Department determined that the Appellant was overpaid from [REDACTED] through [REDACTED] 2021. (Hearing Summary, Department's Testimony)

9. On [REDACTED], 2021, the Department issued a Notice of Action informing the Appellant that she was overpaid in SNAP benefits for months of [REDACTED] 2021, \$782.00, [REDACTED] 2021 \$782.00 and [REDACTED] 2021, \$782.00 and she must repay. It also explained her options for repaying the overpayments. (Exhibit 1: NOA, [REDACTED]/21, Exhibit 2, and Hearing Summary)
10. 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 requested for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2021. Therefore, this decision is due not later than [REDACTED], 2021. However, the hearing, which was originally scheduled for [REDACTED], 2021, was rescheduled for [REDACTED] 2021, at the request of the Appellant, which caused a 21-day delay and again was rescheduled to [REDACTED], 2021, at the Appellant's request which caused another 13-day delay. Because this 34-day (21+13) delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2021, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Commissioner of the Department of Social Services to administer the SNAP program in accordance with federal law.
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 ("UPM") 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*, 2017 Conn. 601, 573 A.2d 712 (1990)).
4. Title 7 Code of Federal Regulation ("CFR") § 273.3 (a) states that A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in §271.2 of this chapter) or office within the State. No individual may participate as a member of more than one household or in more than one project area, in any month, unless an individual is a resident of a shelter for battered women and children as defined in §271.2 and was a member of a household containing the person who had abused him or her. Residents of shelters for battered women and

children shall be handled in accordance with §273.11(g). The State agency shall not impose any durational residency requirements. The State agency shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the State or project area. Persons in a project area solely for vacation purposes shall not be considered residents.

UPM § 3010.30 (A) states that residency in the state is a technical eligibility requirement for Food Stamps. An individual meets the residency requirement by living in Connecticut.

The Department correctly determined that the Appellant is not a resident of Connecticut after moving to the State of [REDACTED] and therefore does not qualify to receive SNAP benefits.

5. 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.

UPM § 7000.01 (A) provides 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

6. 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.

UPM § 7045.10(A) provides that the Department recoups an overpayment or that part of an overpayment that occurs within the following periods. 1. The Department recoups an overpayment caused by administrative error if the overpayment occurred no earlier than 12 months prior to the month the Department discovers it.

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

The Department correctly proposed the recoupment of the SNAP overpayment as it was discovered in [REDACTED] 2021 which was within 12 months of the overpayment occurrence.

7. Title 7 of the CFR §273.18 (c)(1) (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.

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.

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

The Department correctly determined that the Appellant is liable to repay \$2,346.00 in overpaid SNAP benefits. She received \$2,346.00 in SNAP benefits from J [REDACTED] 2021 through [REDACTED] 2021 while she was residing in [REDACTED].

DECISION

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

Swati Sehgal
Swati Sehgal
Hearing Officer

CC: Patricia Ostroski, Operations Manager, New Britain Regional Office
Althea Forbes-Francis, Fair Hearing Liaison, New Britain 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 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.