

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

██████████ 2022
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 188590

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (“the Department”) sent ██████████ (the “Appellant”) a Notice of Client Initiated Electronic Benefit Transfer (“EBT”) Supplemental Nutrition Assistance Program (“SNAP”) Account Adjustment Request denying his call to replace EBT purchases made on ██████████ 2021, that the Appellant states he did not make.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the denial of the replacement of SNAP benefits withdrawn from his EBT account.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings, (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, OLCRAH, at the Appellant’s request, issued a notice rescheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, OLCRAH, at the Appellant’s request, issued a notice rescheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, 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 following individuals participated in the hearing:

██████████ Appellant
██████████ Appellant's Representative
Vismar Melendez, Translator, ITI Translates
Rose Montinat, Department's Representative
Kristen Krawetsky, Department's Associate Fiscal Administrative Officer
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's request for the replacement of SNAP EBT benefits withdrawn from his EBT account on ██████████ 2021.

FINDINGS OF FACT

1. On ██████████ 2021, the Department deposited, and the Appellant received \$250.00 in SNAP benefits into his EBT account. (Exhibit 1: EBT transaction history)
2. On ██████████ 2021, at 5:23 p.m., an incident report was filed with the ██████████ Police Department for the Appellant's apparent assault. The report indicated the responding officer viewed footage from the alleged assault location but was unable to capture the incident on video or locate any witnesses. The report does not include language concerning the purported theft of his EBT card. The officer determined no further police action could be taken based on limited information. (Appellant's Exhibit A: Incident report)
3. On ██████████ 2021, at 5:55 p.m. the Appellant arrive at ██████████ Hospital emergency room and was admitted at 6:03 p.m... The Appellant's partner was with him during his emergency room stay. (Appellant's Exhibit B: Hospital paperwork)
4. On ██████████ 2021, the Appellant stated he placed a phone call to EBT customer service at 10:39 p.m. to change the pin for his EBT card number ending in ██████████. The Appellant wrote down his new PIN on a piece of paper and placed the new PIN in his wallet. (Exhibit 1; Appellant's testimony)
5. On ██████████ 2021, the Appellant's EBT card ending in ██████████ was used at 1:29 a.m. to make a SNAP purchase of \$165.40. (Exhibit 1)
6. On ██████████ 2021, the Appellant was discharged from the hospital at 4:53 a.m. (Appellant's Exhibit B)
7. On ██████████ 2021, the Appellant's EBT card ending in ██████████ was used at 8:27 a.m. to make a SNAP purchase of \$58.20. (Exhibit 1)

8. On [REDACTED] 2021, the Appellant's EBT card ending in [REDACTED] was used at 12:02 p.m. to make a SNAP purchase of \$21.15. (Exhibit 1)
9. On [REDACTED] 2021, the Appellant went to the [REDACTED] regional office to request a new EBT card. There was no indication in the case note indicating what time of day the Appellant was at the [REDACTED] office. (Exhibit 2: Department's case notes)
10. On [REDACTED] 2021, at 11:17 p.m., the Appellant activated his new EBT card ending in [REDACTED]. (Exhibit 1)
11. On [REDACTED] 2021, the Department sent the Appellant a notice denying his request to replace the EBT purchases made on [REDACTED] 2021. (Exhibit 4: Notice)
12. The Appellant does not have an authorized shopper for his EBT account. (Record; Appellant's testimony)
13. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations (C.F.R.) § 273.15 (c) (1) which provides that within 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and the local agency is notified of the decision. The Appellant requested an administrative hearing on [REDACTED] 2022, with this decision due no later than [REDACTED] 2022. However, C.F.R. § 273.15 (c) (4) provides that households that request and receive a postponement(s) of the scheduled hearing may have the time limit for action on the decision extended for as many days as the hearing is deferred. In the present case, the Appellant received two deferments' resulting in a [REDACTED] day delay with this decision due no later than [REDACTED] 2022, since [REDACTED] 2022, is a [REDACTED]. (Hearing record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 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.

The Department has the authority to review the Appellant's SNAP benefit replacement request and determine whether he meets the program's eligibility requirements.

2. "The department's Uniform Policy Manual ("UPM") is the equivalent of 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)).

3. UPM § 6515 provides in relevant part that cash and food stamp benefits deposited in an EBT account in a financial institution must be accessed through the use of Department issued debit cards.

The Department correctly determined that the Appellant's SNAP benefits are paid by way of EBT and accessed by Department issued debit cards.

4. UPM § 6515.15(A)(2) provides that EBT SNAP benefits may be accessed by: a. the head of the assistance unit; b. an authorized representative of the assistance unit; c. an individual acting as an emergency authorized representative.

The Department correctly determined that there was no authorized representative on file to access the Appellant's account on his behalf.

5. 7 C.F.R. § 273.17 (a) (1) provides the State agency shall restore to households benefits that were lost whenever the loss was caused by an error by the State agency or by an administrative disqualification for intentional Program violation which was subsequently reversed as specified in paragraph (e) of this section, or if there is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits. Furthermore, unless there is a statement elsewhere in the regulations that a household is entitled to lost benefits for a longer period, benefits shall be restored for not more than twelve months prior to whichever of the following occurred first: (i) The date the State agency receives a request for restoration from a household; or (ii) The date the State agency is notified or otherwise discovers that a loss to a household has occurred.

7 C.F.R. § 274.2 (g) (2) provides a State agency shall adjust an account to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error. A system error is defined as an error resulting from a malfunction at any point in the redemption process: from the system host computer to the switch, to the third-party processors, to a store's host computer or POS device. These adjustments may occur after the availability date and may result in either a debit or credit to the household.

UPM § 6530.05(A)(2) provides that the Department authorizes the replacement of EBT issued benefits that are considered lost or stolen.

UPM § 6530.15(C) provides EBT issued cash and food stamp benefits are treated as lost benefits if they are not accepted into an EBT account of an eligible client due to Department error or a malfunction of the electronic benefits transfer system.

The Department correctly determined that the SNAP benefits in question were accepted into the Appellant's EBT account and are not considered lost due to a system error or malfunction.

6. UPM § 6530.20(A)(3) provides EBT issued cash and food stamp benefits are treated as stolen benefits if the cash and food stamp benefits are taken by someone other than the client or the client's authorized representative between the time the Department's designee receives notice from a household regarding the need for card replacement and the time that the Department's designee deactivates the client's stolen or lost debit card.

UPM § 6530.20(B)(3) provides that the Department will not replace any recipient cash or food stamp benefits that have been correctly deposited into an EBT account in a financial institution. Such benefits are considered to have been properly received and are not subject to replacement except as provided in section A above or sections 6530.15, 6530.35, 6530.40.

UPM § 6530.20(C)(2) provides that the individual requesting the replacement of stolen EBT issued cash and food stamp benefits is required to file a police report regarding the theft.

UPM §6530.20(C)(3) provides stolen cash benefits and Food Stamp benefits are not replaced if a police report has not been filed.

UPM §6530.50(C)(2) provides EBT issued Food Stamp benefits are treated as stolen benefits if the benefits are taken by someone other than the client or the client's authorized representative between the time the Department's designee receives notice from a household regarding the need for card replacement and the time that the Department's designee deactivates the client's stolen or lost debit card.

The Department correctly determined that the Appellant is not entitled to the replacement of his SNAP benefits because the benefits were correctly deposited and received by the Appellant.

Although an incident report concerning the Appellant's assault was filed, the report did not cite the purported theft of the Appellant's EBT card.

The Department correctly determined the Appellant's EBT issued SNAP benefits could not be treated as stolen because the Appellant's benefits were used [REDACTED] 2021, before the Appellant reported the need for a replacement card and the deactivation of his previous EBT card on [REDACTED] 2021.

DISCUSSION

The Appellant's testimony and incident report do not correlate with the time line of events. Specifically, the Appellant was in the hospital at the time he acknowledged making a phone call to EBT customer service to change his pin. The question remains; Did he call from the hospital or have his friend call? At that time, did his friend go shopping and use his EBT card? Or was his card stolen? The Appellant was discharged from the hospital at 4:53 a.m. on [REDACTED] 2021, and his card was used once more at 12:02 p.m. with the Appellant waiting until 11:17 p.m. to activate his new EBT card he requested on [REDACTED] 2022.

DECISION

The Appellant's appeal is denied.

Christopher Turner
Christopher Turner
Hearing Officer

Cc: Musa Mohamud, DSS Operations Manager Hartford
Josie Savastra, DSS Operations Manager Hartford
Jessica Carroll, DSS Operations Manager Hartford
Jay Bartolomei, DSS Supervisor Hartford
Kristen Krawetsky, DSS Central Office, Hartford

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 the 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 the 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, 165 Capitol Avenue, 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 following §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.