

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

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

Client ID ██████████
Case ID ██████████
Request # 192108

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) issued ██████████ (the “Appellant”) a notice denying her request for replacement of stolen Supplemental Nutrition Assistance Program (“SNAP”) benefits dispensed by Electronic Benefit Transfer (“EBT”).

On ██████████, 2022, the Appellant requested an Administrative Hearing to contest the Department’s decision to deny the replacement of said benefits.

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

On ██████████, 2022, 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 following individuals called in for the hearing:

██████████, Appellant
Kristin Krawetzky, Department Representative
Jessica Gulianello, 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 stolen SNAP EBT benefits is correct.

FINDINGS OF FACT

1. The Department determined the Appellant [REDACTED] eligible for SNAP. (Hearing Record)
2. The Appellant does not have an Authorized Representative ("AREP") or Authorized SNAP Shopper. (Appellant's Testimony)
3. On [REDACTED], 2020, the Department issued the Appellant an EBT card ending with the numbers [REDACTED] to access the SNAP benefits. (Hearing Record)
4. On [REDACTED], 2022, the Department deposited \$95 in SNAP benefits to the Appellant's EBT account. (Exhibit 1: EBT Transaction History, Hearing Record)
5. On [REDACTED], 2022, the Department deposited \$232 in SNAP benefits to the Appellant's EBT account. (Exhibit 1: EBT Transaction History, Hearing Record)
6. On [REDACTED], 2022, the Appellant's EBT card was used at [REDACTED] am to make a purchase in the amount of \$46.61 from the [REDACTED] located at [REDACTED]. (Exhibit 1: EBT Transaction History, Department's Testimony, Appellant's Testimony)
7. On [REDACTED], 2022, the Appellant's EBT card was used at [REDACTED] pm to make a purchase in the amount of \$213.10 from the [REDACTED] located in [REDACTED]. (Exhibit 1: EBT Transaction History, Department's Testimony)
8. On [REDACTED], 2022, the Appellant's EBT card was used at [REDACTED] pm to make a purchase in the amount of \$12.25 from the [REDACTED] located at [REDACTED]. (Exhibit 1: EBT Transaction History, Department's Testimony, Appellant's Testimony)
9. On [REDACTED], 2022, four voice response unit ("VRU") balance inquiries were made. (Exhibit 1: EBT Transaction History, Hearing Record)
10. On [REDACTED], 2022, the Appellant contacted the Department's designee to report SNAP benefits were lost/stolen from her EBT card. (Exhibit 1: EBT Transaction History, Hearing Record, Appellant's Testimony)

11. On [REDACTED], 2022 (the next business day), the Department generated an electronic request for a new EBT card. (Department's Testimony)
12. On [REDACTED], 2022, the Department mailed the Appellant a new EBT card. (Department's Testimony)
13. The Appellant received a new EBT card on or about the following week. (Appellant's Testimony)
14. The Department determined no SNAP purchases were made with the EBT card ending [REDACTED] after the Appellant reported lost/stolen benefits. (Hearing Record)
15. The Appellant did not file a police report regarding the lost/stolen SNAP benefits. (Appellant's Testimony)
16. On [REDACTED], 2022, the Department issued the Appellant a W-0192: Notice of Client Initiated EBT Supplemental Nutrition Assistance Program (SNAP) Account Adjustment Request notice denying her request for replacement stolen benefits. The notice stated the following: Transaction Date/Time: [REDACTED]/2022, [REDACTED]; Location: [REDACTED]; [REDACTED]. Amount: \$213.10. Claim Number: [REDACTED]. Last 4 Digits of Card Number: [REDACTED]. "The EBT system keeps complete records of every EBT transaction. We investigate every report of an error of this kind. We can only make a correction when we have proof that a system error has occurred that has unjustly debited your account. Your request to have SNAP benefits added back into your account has been denied based on a review of the EBT records." (Exhibit 3: EBT Notice, Hearing Record)
17. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which requires that a decision must be reached, and the household notified within 60 days of receipt of a requested fair hearing. The Appellant requested an Administrative Hearing on [REDACTED], 2022, making this decision due no later than [REDACTED], 2022. (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.

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, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990))

The Department has the authority to administer the SNAP.

2. UPM § 6510.20 provides the following: A. The head of the assistance unit in whose name assistance is granted is always the payee of a Food Stamp case. B. An assistance unit's food stamp benefits be will deposited into the payee's food stamp EBT account in a financial institution.

UPM § 6515.15(A)(2) provides the following: Accessing Benefits Deposited in an EBT Account. 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 the Appellant was the only authorized user of the EBT card.

3. Title 7 of the Code of Federal Regulations ("C.F.R") § 7 CFR 274.1 provides the following: (a) *Basic issuance requirements*. State agencies shall establish issuance and accountability systems which ensure that only certified eligible households receive benefits; that Program benefits are timely distributed in the correct amounts; and that benefit issuance and reconciliation activities are properly conducted and accurately reported to FNS. (b) *System classification*. State agencies may issue benefits to households through any of the following systems: (1) An on-line Electronic Benefit Transfer (EBT) system in which Program benefits are stored in a central computer database and electronically accessed by households at the point of sale via reusable plastic cards. (2) An off-line EBT system in which benefit allotments can be stored on a card or in a card access device and used to purchase authorized items at a point-of-sale (POS) terminal without real-time authorization from a central processor.

7 C.F.R § 274.2 (f) provides the following: *EBT cards and Personal Identification Numbers (PINs)*. (1) State agencies which issue EBT cards by mail shall, at a minimum, use first class mail and sturdy nonforwarding envelopes or packages to send EBT cards to households. (2) The State agency shall permit SNAP households to select their PIN. (i) PIN assignment procedures shall be permitted in accordance with industry standards as long as PIN selection is available to clients if they so desire and clients are informed of this option. (ii) If assigning a PIN by mail in conjunction with card issuance, State agencies shall mail the PIN separate from the card one business day after the card is mailed.

The Department correctly determined the Appellant's SNAP benefits were paid by means of EBT and accessed through a Department-issued debit card.

4. 7 C.F.R § 273.17(a)(1) provides the following: *Entitlement*. The State agency shall restore to households benefits which 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 the following: *Adjustments*. A State agency shall make adjustments to 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 the following: *Benefit Replacement*. Subject to the limitations of this chapter, the Department authorizes the replacement of EBT issued benefits that are considered stolen or lost.

UPM § 6530.15(C) provides the following: *Lost Benefits*. 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.

UPM § 6530.50(C)(1) provides the following: *Conditions for Replacement. Lost Benefits*. a. The Department provides replacement of Food Stamp benefits that are not accepted into an EBT account of an eligible client due to Department error or malfunction of the electronic benefits transfer system. b. There are no provisions for replacing any other types of lost benefits other than EBT issued benefits as stated above.

The Department correctly determined the SNAP benefits in question were successfully deposited into the Appellant's EBT account and

were not lost because of Departmental error or malfunction of the EBT system.

5. 7 C.F.R § 274.6(b)(2) provides the following: An immediate hold shall be placed on accounts at the time notice is received from a household regarding the need for card or PIN replacement. The State agency shall implement a reporting system which is continually operative. Once a household reports that their EBT card has been lost or stolen, the State agency shall assume liability for benefits subsequently drawn from the account and replace any lost or stolen benefits to the household. The State agency or its agent shall maintain a record showing the date and time of all reports by households that their card is lost or stolen.

7 C.F.R § 274.6(b)(4) provides the following: *Replacement card*. The State agency shall issue replacement cards and PINs in accordance with § 274.2(f) of this chapter.

The Department promptly issued the Appellant a new EBT card following her report of lost/stolen SNAP benefits preventing further withdrawals from the account in question.

6. UPM § 6530.20(A)(3) provides the following: *Stolen Benefits*. 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 the following: *Agency Responsibilities*. 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 or 6530.40.

UPM § 6530.20(C)(2) provides the following: *Police Report*. 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 the following: Stolen cash benefits and Food Stamp benefits are not replaced if a police report has not been filed.

UPM § 6530.50(C)(2) provides the following: *Conditions for Replacement*. Stolen benefits. EBT issued Food Stamps 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's EBT-issued SNAP benefits could not be treated as stolen as the benefits in question were used on [REDACTED], 2022, prior to her report of missing benefits.

Furthermore, the Appellant did not file a police report regarding the alleged theft of said SNAP benefits.

The Department correctly determined the Appellant's SNAP benefits cannot be replaced.

DECISION

The Appellant's appeal is DENIED.

Jessica Gulianello

Jessica Gulianello
Hearing Officer

CC: Kristin Krawetzky,
Angelica Branfalt SSOM-DSS, Region: 11

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.