

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 # 195345

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

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2022, the Appellant requested an administrative hearing to contest the denial of the replacement of SNAP benefits withdrawn from his EBT account.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

The following individuals participated in the hearing:

██████████, Appellant
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The issue is whether the Department correctly denied the Appellant's request for the replacement of SNAP EBT benefits withdrawn from his EBT account that he states he did not make.

FINDINGS OF FACT

1. The Appellant is a current SNAP recipient. (Record; Appellant's testimony)
2. SNAP recipients swipe their EBT cards and enter a personal identification number ("PIN") to make purchases at retail stores and online. Purchases can be made without the EBT card if the card number and PIN are entered manually at checkout. To change or select a PIN, the EBT card number along with the recipient's date of birth and the last four digits of their social security number is needed. The user is responsible to protect their personal information to prohibit unauthorized access or usage of their EBT card. (Exhibit 3: Department Information bulletin; Department's Representative's Testimony)
3. On [REDACTED] 2022, at [REDACTED] a.m., the EBT card ending in [REDACTED] was reported stolen. (Exhibit 1: EBT Transaction history)
4. On [REDACTED] 2022, the replacement EBT card ending in [REDACTED] was mailed to the Appellant's address. (Record)
5. On [REDACTED] 2022, a phone call was placed to EBT customer service at [REDACTED] p.m. to select a PIN for the EBT card number ending in [REDACTED]. (Exhibit 1)
6. On [REDACTED], 2022, the Appellant's EBT card ending in [REDACTED] was used at [REDACTED] p.m. to make a SNAP purchase of \$81.42 at [REDACTED], CT. (Exhibit 1)
7. On [REDACTED] 2022, the Appellant's EBT card ending in [REDACTED] was used at [REDACTED] p.m. to make a SNAP purchase of \$7.99 at [REDACTED] CT. (Exhibit 1)
8. On [REDACTED] 2022, the Appellant called the Department to inquire about the status of his replacement EBT card requested on [REDACTED] 2022. The Appellant was advised to allow 10 days to receive the replacement card. (Exhibit 2: Case notes)
9. On [REDACTED] 2022, the Appellant's EBT card ending in [REDACTED] was used at [REDACTED] a.m. to make a SNAP purchase of \$62.61 at [REDACTED], CT. (Exhibit 1)
10. On [REDACTED] 2022, the Appellant's EBT card ending in [REDACTED] was used at [REDACTED] a.m. to make a SNAP purchase of \$137.11 at [REDACTED], CT. (Exhibit 1)

11. On [REDACTED] 2022, the Appellant's EBT card ending in [REDACTED] at [REDACTED] p.m. was reported lost although the Appellant indicated he never stated to the Department representative his card was lost. (Exhibit 1; Department Representative's Testimony)
12. On [REDACTED] 2022, the Department sent the Appellant a notice denying his request to restore the EBT purchases made on [REDACTED] 2022. (Exhibit 4: Notice)
13. On [REDACTED] 2022, the Appellant filed a report with the [REDACTED] Department concerning the purported theft and unauthorized use of his EBT issued [REDACTED] 2022. The Appellant noted on the report that his card was stolen out of the mailbox. (Exhibit 5: Police report)
14. On [REDACTED] 2022, the Department replaced the benefits totaling \$199.72 used on [REDACTED] 2022, since the Department did not take timely action to cancel the Appellant's EBT card ending in [REDACTED] when the Appellant spoke with a Department representative on [REDACTED] 2022. A police report was required before the replacement could be approved. (Record; Department's testimony)
15. The Appellant seeks to replace SNAP benefits from his EBT account totaling \$89.41 for the unauthorized usage on [REDACTED] 2022. (Exhibit 4; Appellant's testimony)
16. The Appellant stores his EBT card in his room along with his social security card and other personally identifiable documents. (Appellant's Testimony)
17. The Appellant's niece brings the Appellant's mail into the apartment building and places the mail inside by the back porch. The Appellant believes that someone must have taken the EBT card from the mail and gone into his drawer and wallet that is in his bedroom. (Appellant's testimony)
18. The Appellant has a roommate. (Appellant's testimony)
19. The Appellant does not have an authorized shopper for his EBT account. (Record; Appellant's testimony)
20. 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. (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 using Department issued debit cards.

The Department correctly determined 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 or authorized shopper 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.

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. 7 C.F.R. § 274.6 (b) (2) provides 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.

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 restored the Appellant EBT benefits used [REDACTED] 2022.

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.

The Department correctly determined the Appellant's EBT issued SNAP benefits could not be treated as stolen because the Appellant's benefits were used on [REDACTED] 2022, before the Appellant reported the need for a replacement card and the deactivation of his previous EBT card on [REDACTED] 2022.

DECISION

The Appellant's appeal is denied.


Christopher Turner
Hearing Officer

Cc: Tim Latifi, DSS Operations Manager Bridgeport
Robert Stewart, DSS Operations Manager Bridgeport
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 to 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.