

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

██████████  
Signature Confirmation

Case ID # ██████████  
Client ID # ██████████  
Request # 200128

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a notice stating that it was discontinuing her Supplemental Nutrition Assistance Program ("SNAP") benefits effective ██████████, because she resides in a skilled nursing facility that provides more than half her meals.

On ██████████, the Appellant requested an administrative hearing because she disagrees with the discontinuance of her SNAP benefits.

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

On ██████████, the Appellant requested that OLCRAH reschedule her administrative hearing.

On ██████████, OLCRAH issued a notice scheduling the administrative hearing for ██████████.

On ██████████, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing. The following individuals participated in the hearing:

██████████, Appellant  
Garfield White, Department's Representative  
Kristin Haggan, Fair Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly discontinued the Appellant's SNAP benefit effective [REDACTED], because she resides in a skilled nursing facility.

## **FINDINGS OF FACT**

1. On [REDACTED] [REDACTED] sent the Department an email stating that the Appellant is a resident there. (*Department's Testimony, Hearing Summary*)
2. [REDACTED] is a skilled nursing facility that provides the Appellant three meals per day. (*Hearing Summary, Appellant's Testimony*)
3. The Appellant refuses to eat the meals that the nursing facility provides because they cause her gastrointestinal distress. (*Appellant's Testimony*)
4. The Appellant's mother brings home cooked meals to the Appellant daily. The Appellant prefers her mother's food because it does not make her sick. (*Appellant's Testimony*)
5. The Appellant submitted a letter from her [REDACTED] to the facility requesting that the facility improve the quality of their meals; however, because all meals are prepared and cooked in the same kitchen at the facility, the quality of the food has not changed. (*Appellant's Testimony*)
6. On [REDACTED], the Department issued the Appellant a notice stating that it was discontinuing her SNAP benefits effective [REDACTED], because she resides in a skilled nursing facility that provides more than half her meals per day. (*Exhibit 2: Notice of Action*)
7. 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 the agency shall issue a decision within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED]. OLCRAH scheduled an administrative hearing for [REDACTED]. The Appellant requested a reschedule. OLCRAH held an administrative hearing on [REDACTED]; therefore, this decision is due no later than [REDACTED]. (*Hearing Record*)

## **CONCLUSIONS OF LAW**

1. Section 17b-2(7) of the Connecticut General Statutes provides that 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.

**The Department has the authority to review the Appellant's SNAP benefits and determine whether she meets the program's eligibility requirements.**

2. 7 C.F.R. § 273.1 (b)(7)(vi) provides for ineligible household members. Residents of an institution are not eligible to participate, with some exceptions. Individuals must be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. Exceptions to this requirement include only the individuals listed in paragraphs (b)(7)(vi)(A) through (b)(7)(vi)(E) of this section. The individuals listed in paragraphs (b)(7)(vi)(A) through (b)(7)(vi)(E) can participate in the Program and must be treated as separate households from the others with whom they reside, subject to the mandatory household combination requirements of paragraph (b)(1) of this section, unless otherwise stated:

- (A) Individuals who are residents of federally subsidized housing for the elderly;
- (B) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program. This includes the children but not the spouses of such persons who live with them at the treatment center or facility;
- (C) Individuals who are disabled or blind and are residents of group living arrangements;
- (D) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and
- (E) Individuals who are residents of public or private nonprofit shelters for homeless persons.

**The Department correctly determined the Appellant is ineligible to receive SNAP benefits because she is a resident of an institution that provides her with three meals per day and she does not meet any exceptions to this requirement.**

3. 7 C.F.R. § 273.13(a) provides for notice of adverse action. Prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken.
  - (1) The notice of adverse action shall be considered timely if the advance notice period conforms to that period of time defined by the State agency as an adequate

notice period for its public assistance caseload, provided that the period includes at least 10 days from the date the notice is mailed to the date upon which the action becomes effective. Also, if the adverse notice period ends on a weekend or holiday, and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the State agency shall consider the request timely received.

4. 7 C.F.R. § 273.12(c)(2)(i) provides if the household's benefit level decreases or the household becomes ineligible as a result of the change, the State agency shall issue a notice of adverse action within 10 days of the date the change was reported unless one of the exemptions to the notice of adverse action in § 273.13 (a)(3) or (b) applies. When a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested. When a notice of adverse action is not used due to one of the exemptions in § 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by § 273.2(f) must be obtained prior to recertification.
5. 7 C.F.R § 273.13(b) provides for exemptions from notices of adverse action. Individual notices of adverse action shall not be provided when:
  - (1) The State initiates a mass change through means other than computer matches as described in § 273.12(e)(1), (e)(2), or (e)(3)(i).
  - (2) The State agency determines, based on reliable information, that all members of a household have died.
  - (3) The State agency determines, based on reliable information, that the household has moved from the project area.
  - (4) The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.
  - (5) The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.
  - (6) The household jointly applied for PA/GA and SNAP benefits and has been receiving SNAP benefits pending the approval of the PA/GA grant and was notified at the time of certification that SNAP benefits would be reduced upon approval of the PA/GA grant.
  - (7) A household member is disqualified for an intentional Program violation in accordance with § 273.16, or the benefits of the remaining household members

are reduced or terminated to reflect the disqualification of that household member, except as provided in § 273.11(c)(3)(i). A notice of adverse action must be sent to a currently participating household prior to the reduction or termination of benefits if a household member is found through a disqualified recipient match to be within the period of disqualification for an intentional Program violation penalty determined in another State. In the case of applicant households, State agencies shall follow the procedures in § 273.2(f)(11) for issuing notices to the disqualified individual and the remaining household members. The notice requirements for individuals or households affected by intentional Program violation disqualifications are explained in § 273.16.

(8) The State agency has elected to assign a longer certification period to a household certified on an expedited basis and for whom verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the verification which was initially postponed and that the State agency may act on the verified information without further notice as provided in § 273.2(i)(4).

(9) The State agency must change the household's benefits back to the original benefit level as required in § 273.12(c)(1)(iii).

(10) Converting a household from cash and/or SNAP benefit repayment to benefit reduction as a result of failure to make agreed upon repayment as discussed in § 273.18.

(11) The State agency is terminating the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement if the facility loses either its certification from the appropriate agency or agencies of the State (as defined in § 271.2) or has its status as an authorized representative suspended due to FNS disqualifying it as a retailer. However, residents of group living arrangements applying on their own behalf are still eligible to participate.

(12) The household voluntarily requests, in writing or in the presence of a caseworker, that its participation be terminated. If the household does not provide a written request, the State agency shall send the household a letter confirming the voluntary withdrawal. Written confirmation does not entail the same rights as a notice of adverse action except that the household may request a fair hearing.

(13) The State agency determines, based on reliable information, that the household will not be residing in the project area and, therefore, will be unable to obtain its next allotment. The State agency shall inform the household of its termination no later than its next scheduled issuance date. While the State agency may inform the household before its next issuance date, the State agency shall not delay terminating the household's participation in order to provide advance notice.

(14) The State agency initiates recoupment of a claim as specified in § 273.18(g)(4) against a household which has previously received a notice of adverse action with respect to such claim.

The Department incorrectly discontinued the Appellant's SNAP benefit effective [REDACTED]. The Appellant does not meet any of the exemptions from the notice of adverse action, therefore, the Department should have discontinued her benefit after the expiration of the adverse action notice (10 days) effective [REDACTED].

### **DISCUSSION**

The Department correctly discontinued the Appellant's SNAP benefit due to her being a resident of a skilled nursing facility that provides her three meals per day.

The Department incorrectly issued the Appellant a Notice of Action on [REDACTED], informing her that it would discontinue her SNAP benefits effective [REDACTED]. The Department did not give the required ten-day adverse action notice to the Appellant before discontinuing her SNAP benefits. The Department should have issued the Appellant a SNAP benefit for the month of [REDACTED] and discontinued her SNAP benefits effective [REDACTED].

### **DECISION**

The Appellant's appeal is **GRANTED with respect to the effective date of the discontinuance.**

The Appellant's appeal is **DENIED with respect to the discontinuance of the SNAP benefits.**

### **ORDER**

1. The Department is ordered to reopen the Appellant's SNAP benefit for the month of [REDACTED] and issue a benefit for the month of [REDACTED].
2. No later than 10 days from the date of this decision, compliance with this order is due to the undersigned.

*Kristin Haggan*

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Kristin Haggan  
Fair Hearing Officer

CC: Josephine Savastra, SSOM Hartford Regional Office  
Lindsey Collins, SSOM Hartford Regional Office  
Wilfredo Medina, Supervisor, Hartford Regional Office  
Garfield White, Fair Hearing Liaison, Hartford 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, 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 Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

### **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. 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 her designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and 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.