

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

██████████
██████████
Request # 201294

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”), a notice denying her request for a \$615.30 account adjustment under the Supplemental Nutritional Assistance Program (“SNAP”) for benefits reported as subtracted by mistake.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the Department’s decision to deny the request for replacement benefits under the SNAP.

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

On ██████████, 2022, the Appellant requested the administrative hearing to be rescheduled.

On ██████████ 2022, OLCRAH issued a notice rescheduling 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. The following individuals participated in the hearing:

██████████, Appellant
 Kristen Krawetzky, Department Representative
 Melissa Prisavage, Observing Hearing Officer
 Carla Hardy, Fair Hearing Officer

The hearing record remained open until ██████████ 2022, for the Appellant to submit a police report. The closing of the hearing record was extended until ██████████, 2022, at the request of the Appellant.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's request to replace unauthorized electronic benefit transfer ("EBT") transactions under her SNAP account.

FINDINGS OF FACT

1. On ██████████ 2021, the Appellant's EBT card ending in 4111 was issued. (Hearing Summary)
2. Each month the Department electronically deposits SNAP benefits into a recipient's EBT account where recipients can access their benefits using their EBT card and personal identification number ("PIN"). (Hearing Record)
3. On ██████████ 2022, the Department deposited the Appellant's ██████████ 2022 SNAP benefit into the Appellant's EBT account. These benefits became available for use on ██████████ 2022. (Department's Testimony)
4. Benefits are available on the third day of every month for persons whose last name begins with an █ through █ Exhibit 2: Publication No. 07-08)
5. On ██████████ 2022, at 4:40 pm, the Appellant's EBT card was used to make a \$.96 purchase. (Exhibit 1: Transaction History; Hearing Record)
6. On ██████████ 2022, at 8:38 pm, the Appellant's EBT card was used to make a \$615.30 purchase at ██████████ Florida. (Exhibit 1: Transaction History; Exhibit 3: Notice of the Client Initiated EBT SNAP Account Adjustment Request-W-0192, ██████████/22; Hearing Summary)
7. The Appellant did not initiate the \$.96 purchase or the \$615.30 purchase at ██████████ (Appellant's Testimony)

8. On or about [REDACTED] 2022, the Appellant discovered that she had less than what she expected in her SNAP EBT account. (Appellant's Testimony)
9. On [REDACTED] 2022, the Appellant reported the unauthorized use of her EBT benefits to the Department. (Department's Testimony; Hearing Summary)
10. The Appellant did not lose her EBT card and had the EBT card ending in 4111 in her possession. (Appellant's Testimony)
11. On [REDACTED] 2022, the Department deactivated the Appellant's EBT card ending in 4111. (Exhibit 1; Department's Testimony)
12. On [REDACTED], 2022, the Department issued a replacement EBT card to the Appellant. (Department's Testimony)
13. The Appellant did not realize that a \$.96 purchase was made on [REDACTED] [REDACTED] 2022, without her authorization when she reported the unauthorized use of benefits to the Department on [REDACTED] 2022. (Appellant's Testimony)
14. The Appellant is seeking to replace the SNAP benefits totaling \$616.26 ($$.96 + \$615.30 = \$616.26$) that was not authorized by her on [REDACTED] [REDACTED] 2022. (Appellant's Testimony)
15. On [REDACTED], 2022, the Department issued a notice to the Appellant denying her request to have SNAP benefits adjusted back into her EBT account. The notice informs the Appellant that the Department makes a correction when they have proof that a system error has occurred that has unjustly debited the account. (Exhibit 3)
16. The Department suspects that the Appellant's EBT card was skimmed, a duplicate card created and used at [REDACTED] (Department's Testimony)
17. On [REDACTED] 2022, the hearing record remained open for the Appellant to submit a police report by [REDACTED] 2022. (Hearing Record)
18. On [REDACTED] 2022, the Appellant requested additional time to secure a police report. (Hearing Officer's Exhibit Z1: Email between the Appellant and the Hearing Officer)
19. On [REDACTED] 2022, this Hearing Officer extended the closing of the hearing record. The record closed on [REDACTED], 2022. (Exhibit Z1)

20. On [REDACTED] 2022, the Appellant submitted a card with a [REDACTED] Police Department ([REDACTED]) case number that was established on [REDACTED] 2022. (Appellant's Exhibit A: [REDACTED] Card and email from the Appellant)
21. Police reports are usually available from [REDACTED] after three to five business days. (Exhibit A)
22. The issuance of this decision is timely under the Code of Federal Regulations § 273.15(c) which states that a decision must be reached, and the household notified within 60 days of receipt of a request for a hearing. The Appellant requested an administrative hearing on [REDACTED] 2022. Therefore, this decision is due no later than [REDACTED] 2022. However, the hearing record was rescheduled at the Appellant's request causing a 28-day delay. The hearing record was further delayed an additional 21 days due to the extending of the closure of the hearing record. Because of the 49-day delay, the hearing record is due no later than [REDACTED], 2023.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides as follows: 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 benefit replacement request and determine whether she meets the program's eligibility requirements.

2. Title 7 of the Code of Federal Regulation ("C.F.R.") § 273.17(a)(1) provides 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.

Title 7 C.F.R. § 274.2(g)(2) provides for adjustments and provides 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.

On [REDACTED] 2022, the Department correctly determined that SNAP benefits are not replaced when the Department correctly issues and deposits SNAP benefit into the Appellant's account and the benefits are not lost due to a system error or malfunction.

DECISION

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

____ *Carla Hardy* ____
Carla Hardy
Fair Hearings Officer

Pc: Kristin Krawetzky, Department of Social Services Central 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.