

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 # 202941

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a notice denying his request for an account adjustment under the Supplemental Nutritional Assistance Program (“SNAP”) for benefits he reported as stolen.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the Department’s decision to deny his 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, 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 were present for the hearing:

██████████ Appellant
██████████, Appellant’s Daughter and Interpreter
Kristen Krawetzky, Department Representative, participated by telephone
Lisa Nyren, Fair Hearing Officer
Joshua Ives, Regional Office Host

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's [REDACTED] 2022 decision to deny the Appellant's request to replace unauthorized electronic benefit transfer ("EBT") transactions under her SNAP account between [REDACTED] 2022 and [REDACTED] 2022 was correct.

FINDINGS OF FACT

1. The Appellant receives SNAP benefits for himself and his wife. (Hearing Record)
2. The Appellant resides at [REDACTED] with his wife. No other individuals reside with the Appellant and his wife. (Appellant Testimony and Witness Testimony)
3. Each month the Department electronically deposits SNAP benefits to a recipient's EBT account where recipients can access their benefits using their EBT card and personal identification number ("PIN") as chosen by the recipient. (Department Representative's Testimony and Exhibit 1: EBT Transaction History)
4. SNAP recipients swipe their EBT cards and enter a PIN to make purchases at retail stores. Purchases can be made without the EBT card if the card number and PIN are entered manually at checkout. (Department Representative's Testimony)
5. On [REDACTED] 2020, the Department issued the Appellant an EBT card ending in 5124. (Department Representative's Testimony)
6. The Department includes the informational pamphlet titled "How to Use Your EBT Connect Card" with newly issued EBT cards. SNAP benefits become available on the first, second, or third of the month based on the first letter of your last name. The Appellant's SNAP benefits become available on the second of the month. The pamphlet notes lost, or stolen benefits will not be replaced. (Exhibit 2: Publication No 07-08)
7. The Appellant stores his EBT card in his wallet. (Appellant's Testimony)
8. [REDACTED] ("Witness") is the Appellant's daughter. The Witness is the only other person who may access the Appellant's SNAP benefits with his EBT card, but only when the Appellant gives the card to the Witness with shopping instructions. (Appellant Testimony and Witness Testimony)

9. On [REDACTED] [REDACTED] 2022 at 9:15 am, the Appellant reported to the Department unauthorized use of his EBT account during the period [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2022. The Appellant retained his EBT card ending in 5124 but did not authorize the three transactions totaling \$812.00 made at [REDACTED] (“out of state market”) listed in the chart below. (Exhibit 1: EBT Transaction History, Exhibit 3: Denial Notice, Witness Testimony, and Appellant Testimony)

Date & Time	Amount
[REDACTED] [REDACTED] 2022 @ 8:46 pm	\$200.00
[REDACTED] [REDACTED] 2022 @ 4:23 am	\$102.00
[REDACTED] [REDACTED] 2022 @ 1:54 am	\$510.00
Total	\$812.00

10. On [REDACTED] [REDACTED] 2022, the Department cancelled the Appellant’s EBT card ending in 5124 to prevent further unauthorized use of the Appellant’s EBT account. (Hearing Record))
11. The Appellant seeks to replace SNAP benefits in which he did not authorize under his EBT account totaling \$812.00 during the period [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2022. (Appellant Testimony, Witness Testimony, and Exhibit 3: Denial Notice)
12. The Appellant did not contact the police to report SNAP benefits as stolen. The Appellant did not contact the retail store where the unauthorized transactions occurred. (Witness Testimony)
13. On [REDACTED] [REDACTED] 2022, the Department denied the Appellant’s request to replace SNAP benefits reported as stolen because there are no provisions under SNAP policy which allow replacement of SNAP EBT unauthorized transactions. (Department Representative’s Testimony and Exhibit 3: Denial Notice)
14. On [REDACTED] [REDACTED] 2022, the Department issued the Appellant a notice denying his request to have SNAP benefits added back into his EBT account. The notice states, “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: Denial Notice)
15. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an

administrative hearing on [REDACTED] [REDACTED] 2022. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2022.

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.

2. Title 7 Section 274.6(a) of the Code of Federal Regulations ("C.F.R.") provides for replacement issuances to households as follows:
 1. Subject to the restrictions in [paragraph \(a\)\(3\)](#) of this section, State agencies shall provide replacement issuances to a household when the household reports that food purchased with Program benefits was destroyed in a household misfortune.
 2. Where a Federal disaster declaration has been issued and the household is eligible for disaster SNAP benefits under the provisions of part 280, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

SNAP regulations permit the replacement of SNAP benefits destroyed due to a household misfortune, however the Appellant's request to replace SNAP benefits does not meet this criterion. The Department correctly determined the Appellant is not entitled to a replacement of SNAP benefits due to a household misfortune.

3. Federal regulation provides as follows:

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.

7 C.F.R. § 274.2(g)(2)

Federal regulation provides as follows:

The State agency must act on all requests for adjustments made by client households within 90 calendar days of the error transaction. The State agency has 10 business days from the date the household notifies it of the error to investigate and reach a decision on an adjustment and move funds into the client account. This timeframe also applies if the State agency or entity other than the household discovers a system error that requires a credit adjustment to the household. Business days are defined as calendar days other than Saturdays, Sundays, and Federal holidays.

7 C.F.R. § 274.2(g)(2)(i)

The Department correctly denied the Appellant's request for an adjustment to his SNAP EBT account. Under federal regulation, the Department makes adjustments as a result of a system error. The Appellant's request fails to meet this criterion.

On ████████ ■ 2022, the Department correctly denied the Appellant's request for an adjustment timely and issued a notice of denial.

4. Federal regulation provides as follows:

The State agency shall make replacement EBT cards available for pick up or place the card in the mail within two business days following notice by the household to the State agency that the card has been lost, stolen or damaged unless the State agency implements a replacement procedure pursuant to [paragraph \(b\)\(5\)](#) of this section.

7 C.F.R. § 274.6(b)

Federal regulation provides as follows:

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)(2)

The Department correctly denied the Appellant's request to replace SNAP benefits for which he did not authorize between ████████ ■ 2022 and ████████ ■ 2022. The Department assumes liability for any

unauthorized transactions which occur after an EBT card is reported lost or stolen. The [REDACTED] [REDACTED] 2022, [REDACTED] [REDACTED] 2022, and [REDACTED] [REDACTED] 2022 unauthorized transactions occurred prior to the Appellant's [REDACTED] [REDACTED] 2022 stolen report to the Department. There are no guaranteed protections under Federal law against unauthorized access to an EBT account.

DISCUSSION

On [REDACTED] [REDACTED] 2022, the Appellant reported unauthorized access to his EBT account to the Department. It is speculation that the Appellant's EBT card may have been compromised by a skimming device at a Connecticut retailer resulting in the unauthorized transactions at the out of state market. SNAP regulations do not allow for replacement of such benefits at this time. The Department's action to deny the Appellant's request to replace such benefits was correct. The Department recommends follow-up with law enforcement as recourse.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Kristin Krawetzky, DSS CO

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.