

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

██████████, 2023
SIGNATURE CONFIRMATION

██████████
██████████
REQUEST# 207780

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a notice denying her request for the replacement of her 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 her SNAP benefits.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2023.

On ██████████ 2023, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 2023.

On ██████████, 2023, 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
Andrew Davis, Department's Representative
Melissa Prisavage, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's determination that the Appellant is not entitled to replacement of stolen SNAP EBT benefits is correct.

FINDINGS OF FACT

1. On [REDACTED], 2022, the Appellant's EBT card ending in [REDACTED] was issued by the Department. (Hearing Record)
2. On [REDACTED], 2022, the Department deposited \$428 in SNAP benefits into the Appellant's EBT account. (Exhibit 1: EBT Transaction History)
3. On [REDACTED] 2022, at 4:07 pm, the Appellant's EBT card ending in [REDACTED] and the Personal Identification Number ("PIN") were used to make a \$169.39 purchase at [REDACTED] in Houston, TX. (Exhibit 1, Exhibit 3: W-0192, Notice of the Client Initiated EBT SNAP Account Adjustment Request dated [REDACTED], 2022)
4. On [REDACTED] 2022, at 4:28 pm, the Appellant's EBT card ending in [REDACTED] and the PIN were used to make a \$115.49 purchase at [REDACTED] in Houston, TX. (Exhibit 1, Exhibit 3)
5. The Appellant disputes the [REDACTED] 2022 charges to her EBT card ending in [REDACTED]. (Appellant's Testimony)
6. On [REDACTED], 2022, at 1:48 pm, the EBT card ending in [REDACTED] was reported stolen. (Hearing Record, Exhibit 1)
7. There were no further transactions on the EBT card ending in [REDACTED] after it was reported stolen. (Hearing record, Department's Testimony)
8. The Appellant filed a police report regarding the stolen EBT benefits. (Appellant's Testimony)
9. On [REDACTED], 2022, the Department sent the Appellant a Notice of the Client Initiated EBT SNAP Account Adjustment Request. The notice stated the Appellant was denied her request to have SNAP benefits added back into her account and that "We can only make a correction when we have proof that a system error has occurred that has unjustly debited your account." (Exhibit 3:

Notice dated [REDACTED], 2022)

10. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 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], 2023. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides that the Department of Social Services be designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Federal Regulation provides as follows: (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. Title 7 of the Code of Federal Regulations ("C.F.R") § 7 CFR 274.1(a)&(b)
3. Federal Regulation provides as follows: *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 non forwarding 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. 7 C.F.R § 274.2 (f)

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

4. Federal Regulation provides as follows: 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 CFR § 273.17(a)(1)

The Department correctly determined that the Appellant's request for replacement benefits was a result of a stolen EBT account number and PIN.

5. 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 CFR § 274.2(g)(2)

The Department correctly determined that the Appellant's SNAP benefits were correctly deposited into her EBT account and were not lost because of Departmental error or malfunction of the EBT system.

6. 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 determined that the Appellant's EBT-issued SNAP benefits could not be treated as stolen because the Appellant's benefits were used prior to reporting the need for a replacement and deactivation of the EBT card.

The Department correctly denied the Appellant's request for replacement of SNAP benefits.

DECISION

Appellant's appeal is **DENIED**.

Melissa Prisavage

**Melissa Prisavage
Fair Hearing Officer**

CC: Andrew Davis, DSS Fiscal Administrative Manager 2, 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.