

**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

CASE # ██████████
CLIENT ID # ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) issued ██████████ (the “Appellant”) a notice denying his request for replacement of \$1319.87 in Supplemental Nutrition Assistance Program (“SNAP”) benefits dispensed by Electronic Benefit Transfer (“EBT”).

On ██████████, 2023, the Appellant requested an administrative hearing to contest the Department’s decision to deny replacement of his SNAP benefits.

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

On ██████████, 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals were present at the hearing:

- ██████████, Appellant
- Kirsten Powell, DSS Observer
- Kristin Krawetzky, Associate Fiscal Administrative Officer, Department’s Representative
- Joseph Davey, Administrative Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant is not entitled to replacement of \$1319.87 in SNAP EBT benefits.

FINDINGS OF FACT

1. On [REDACTED], 2021, the Department issued EBT card ending in [REDACTED] to the Appellant. (Hearing Record)
2. SNAP recipients are advised that stolen or lost benefits will not be replaced via Publication No. 07-08. (Exhibit 2: Publication No. 07-08 [Revised 09/2017])
3. The Appellant's SNAP benefits are deposited and available on the second of each month. The Appellant's SNAP benefits for [REDACTED] 2022, were correctly deposited and available to him via his EBT card on the second of the month. (Exhibit 1: EBT transaction history [REDACTED]-[REDACTED], Department's testimony)
4. On [REDACTED], 2023, the EBT card ending in [REDACTED] and the Appellant's Personal Identification Number ("PIN") were used to make the following purchases in the state of Texas:

Date	Time	Amount	Location
[REDACTED]	7:26PM	\$340.69	[REDACTED] [REDACTED]
[REDACTED]	8:02PM	\$424.89	[REDACTED] [REDACTED]
[REDACTED]	8:04PM	\$37.06	[REDACTED] [REDACTED]
[REDACTED]	8:41PM	\$338.58	[REDACTED] [REDACTED]
[REDACTED]	9:47PM	\$92.65	[REDACTED] [REDACTED]
[REDACTED]	9:49PM	\$86.00	[REDACTED] [REDACTED]

(Exhibit 1, Exhibit 3: Form W-0192, Notice of the Client Initiated EBT Supplemental Nutrition Assistance Program [SNAP] Account Adjustment Request dated [REDACTED], Department's testimony)

5. On [REDACTED], 2022, at 11:16AM, the Appellant called the Department to report a fraudulent transaction on his EBT card ending in [REDACTED]. (Department's testimony)

6. The Appellant does not have an authorized shopper. (Appellant's testimony)
7. [REDACTED] is the Appellant's son and resides with the Appellant in [REDACTED]. The son and the Appellant are the only individuals with access to his EBT card and with knowledge of the PIN number. (Appellant's testimony)
8. No purchases in the state of [REDACTED] were made by the Appellant or his son with the EBT card ending in [REDACTED]. (Appellant's testimony)
9. The transactions on [REDACTED], 2022, in the state of [REDACTED] were made at physical locations and not via online purchasing. (Department's testimony)
10. The transactions made with the EBT card ending in [REDACTED] on [REDACTED], 2022, were possibly fraudulent and may have been obtained via the use of a skimming device. (Department's testimony)
11. The Department deactivated the EBT card ending in [REDACTED] on [REDACTED], 2022; the same day the Appellant called to report the suspected fraudulent transactions. (Department's Testimony)
12. No transactions with the EBT card ending [REDACTED] were completed after the Appellant reported the possible fraudulent activity. (Exhibit 1, Hearing Record)
13. The Appellant did not report any fraudulent transactions on his EBT card to the Department prior to [REDACTED], 2022. (Appellant's testimony, Department's testimony)
14. The Appellant did not file a police report regarding the alleged fraudulent transactions. (Appellant's testimony, Department's testimony)
15. On [REDACTED], 2022, the Department sent the Appellant a Notice of the Client Initiated EBT SNAP Account Adjustment Request [form W-0192.] The notice stated the Appellant's request was denied because: "We can only make a correction when we have proof that a system error has occurred that has unjustly debited your account." (Exhibit 3)
16. No system errors occurred between [REDACTED], 2022, and [REDACTED], 2022. (Department's testimony)
17. The issuance of this decision is timely under the Code of Federal Regulations ("C.F.R.") § 273.15 (c)(1) which provides in part that "[w]ithin [REDACTED] 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 local agency are notified of the decision...." The Appellant requested an administrative hearing on [REDACTED], 2023. Therefore, this decision is due not later than [REDACTED], 2023.

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.

The Department has the authority to administer the SNAP and review the Appellant's benefit replacement request.

2. 7 C.F.R. § 274.1(a)(b)(1)(2) provides for (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.

7 C.F.R § 274.2 (f)(1)(2)(i)(ii) provides for *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.

The Department correctly issued the Appellant an EBT card through which he was able to receive and access his SNAP benefits.

3. 7 C.F.R. § 273.17(a)(1) provides that 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 C.F.R. § 274.2(g)(2) provides that 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.

The Department correctly determined the Appellant's SNAP benefits for [REDACTED] 2022 were properly deposited into his EBT account.

The Department correctly determined that the allegedly fraudulent transactions on [REDACTED], 2022, were not the result of a system error.

4. 7 C.F.R § 274.6(b)(2) 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.

The Department correctly placed an immediate hold on the Appellant's EBT card ending in [REDACTED] on [REDACTED], 2022; the day he reported the allegedly fraudulent transactions.

The Department correctly determined that the SNAP benefits allegedly stolen prior to [REDACTED], 2022, could not be reimbursed because the Department is only liable to replace benefits lost or stolen after the household reports the theft or loss.

The Department's decision to deny the Appellant's request for replacement of SNAP benefits was correct.

DECISION

The Appellant's appeal is **DENIED**

A handwritten signature in black ink, appearing to read 'J. Davey', written over a horizontal line.

Joseph Davey
Administrative Hearing Officer

CC: Kristin Krawetzky, Associate Fiscal Administrative Officer, DSS, 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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court with **(45)** days of the mailing of this decision, or **(45)** days after the agency denies 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 06105-3725. 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 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.

