

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

[REDACTED], 2023  
Signature confirmation

Case: [REDACTED]  
Client: [REDACTED]  
Request: 219413

**NOTICE OF DECISION**

**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED], 2023, the Department of Social Services (the “Department”) denied [REDACTED]’s (the “Appellant”) request for replacement Supplemental Nutrition Assistance Program (“SNAP”) benefits.

On [REDACTED], 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s online hearing request.

On [REDACTED], 2023, the OLCRAH scheduled an administrative hearing for [REDACTED], 2023.

On [REDACTED], 2023, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing by telephone conferencing. The following individuals participated:

[REDACTED], Appellant  
Niurka Collado, Department Representative  
Eva Tar, Hearing Officer

The hearing record closed [REDACTED], 2023.

**STATEMENT OF ISSUE**

The issue is whether the Department correctly determined that the Appellant was ineligible for replacement SNAP benefits, based on her date of report of her food loss.

### FINDINGS OF FACT

1. The Appellant is a SNAP recipient. (Exhibit 3)
2. In █████ 2023, the Appellant lived at █████ (the “premises”). (Appellant Testimony) (Exhibit 1)
3. The Appellant had a deep freezer filled with food in the premises’ basement. (Appellant Testimony)
4. On █████, 2023, the basement flooded with rainwater and septic water; the flooding also impacted the electricity in the basement. (Appellant Testimony)
5. The fire department pumped the water out of the basement. (Appellant Testimony)
6. The food in the Appellant’s deep freezer was a total loss due to contamination. (Appellant Testimony)
7. A DEEP [Department of Energy and Environmental Protection] official and a building inspector inspected the basement after the flooding. (Appellant Testimony)
8. A few days after the flooding, the Appellant telephoned the Department to report her food loss. (Appellant Testimony)
9. During the telephone conversation, the Appellant asked a Department employee what proof would be needed as to the flooding and whether a video taken of the basement would be adequate. The Appellant told the Department employee that getting reports from DEEP and the building inspector may take a few weeks. (Appellant Testimony)
10. The Appellant exercised due diligence by telephoning the Department in late █████ 2023 and seeking the Department’s advice as to what steps she needed to take to receive replacement SNAP benefits.
11. During the telephone conversation, the Department employee instructed the Appellant to visit the regional office once she received the inspector’s report of the flooding damage. The Department employee did not give a deadline for the submission of documents to the regional office. (Appellant Testimony) (Exhibit 3)
12. The Department employee did not update the Department’s Case Notes to document the Appellant’s telephone call. (Exhibits 3 and 4)
13. On █████, 2023, J.D. Amelia & Associates, LLC, inspected the premises and concluded: 1) the basement flooding was caused by plumbing issues; and 2) all the Appellant’s belongings in the basement were damaged by water. (Exhibit 5)

14. On [REDACTED], 2023, the Appellant submitted the following documents in person at the Department's local regional office: a completed W-1225: *Request for Replacement of Food Purchased with SNAP Benefits*, a completed W-1226: *Proof of Food Loss-Collateral Contact Form* signed by a collateral contact; and a J.D. Amelia & Associates, LLC Inspection Form. (Appellant Testimony) (Exhibits 3 and 5)
15. Upon review of the Appellant's submitted documents, the Department identified the Appellant's initial date of report of food loss as [REDACTED], 2023, as there was no Case Note entry as to the Appellant's late-[REDACTED] 2023 telephone call. The Department used [REDACTED] 2023 as the date of first report. (Exhibit 3) (Department Representative Testimony)
16. On [REDACTED], 2023, the Department denied the Appellant's request for replacement SNAP benefits. (Exhibit 3)
17. The Department did not retain a digital or hardcopy of the W-1227: *Denial of Request for Replacement of Food Purchased with SNAP Benefits* that it issued to the Appellant on [REDACTED] 2023. (Exhibits 5 and 6)
18. The Appellant received a denial notice from the Department. (Appellant Testimony)
19. Prior to the Department's [REDACTED] 2023 denial, the Appellant was unaware that the SNAP required her to submit a written statement of her food loss (W-1225) to the Department within 10 days of her late-[REDACTED] 2023 telephoned report as a condition of eligibility for replacement SNAP benefits. (Exhibit 3)
20. The Appellant had no convenient means of acquiring the knowledge of the Department's deadlines with respect to replacement SNAP benefits. (Exhibit 3)
21. The Appellant relied on the Department employee's verbal instructions in late-[REDACTED] 2023 to file her paperwork after she had secured the inspector's report.
22. The Appellant has since relocated to a different address. (Appellant Testimony)
23. Title 7, Section 273.15 (c)(1) of the Code of Federal Regulations ("C.F.R.") provides that "[w]ithin 60 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...."

On [REDACTED] 2023, the OLCRAH received the Appellant's hearing request. This hearing decision would have become due by no later than [REDACTED] 2023. This decision is timely.

## CONCLUSIONS OF LAW

1. The Department of Social Services is the designated state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008. Conn. Gen. Stat. § 17b-2.

“The commissioner shall grant aid only if he finds the applicant eligible therefor....” Conn. Gen. Stat. § 17b-80.

### **The Department has the authority to administer the SNAP in Connecticut.**

2. Section 1570.25 C.2. of the Uniform Policy Manual (“UPM”) provides in part: “The Fair Hearing official: a. ...; b. ...; c. determines the issue of the hearing; d. considers all relevant issues....”

“The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; [Richard v. Commissioner of Income Maintenance, 214 Conn. 601, 573 A.2d 712 \(1990\)](#)).

3. Title 7, Section 274.6 of the Code of Federal Regulation (“C.F.R.”) addresses replacement issuances and cards to households.

“Replacement issuances shall be provided only if a household timely reports a loss orally or in writing. The report will be considered timely if it is made to the State agency within 10 days of the date food purchased with Program benefits is destroyed in a household misfortune.” 7 C.F.R. § 274.6 (a)(3)(i).

**The Appellant’s late-██████ 2023 verbal report of her food loss by telephone to a Department employee was timely, in accordance with 7 C.F.R. § 274.6 (a)(3)(i).**

4. “The State agency shall document in the household’s case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household statement required in paragraph (a)(4) of this section.” 7 C.F.R. § 274.6 (a)(7)(i).

**The Department did not comply with the requirements of 7 C.F.R. § 274.6 (a)(7)(i) or erred when it failed to update its Case Notes to document the Appellant’s late-██████ 2023 telephone call requesting replacement SNAP benefits.**

**The Department incorrectly determined that the Appellant was ineligible for replacement SNAP benefits, as the Appellant’s late-██████ 2023 verbal report of her food loss to the Department was timely.**

5. “Prior to issuing a replacement, the State agency shall obtain from a member of the household a signed statement attesting to the household’s loss. The required statement

may be mailed to the State agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.” 7 C.F.R. § 274.6 (a)(4)(i).

**The Appellant correctly submitted a signed statement (W-1225) attesting to her food loss to the Department.**

6. “If the signed statement or affidavit is not received by the State agency within 10 days of the date of report, no replacement shall be made. If the 10<sup>th</sup> day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the State agency shall consider the statement timely received.” 7 C.F.R. § 274.6 (a)(4)(ii).

For all programs administered by the Department, “[t]he Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit’s rights and responsibilities.” UPM § 1015.10 A.

**The Department erred by failing to inform the Appellant during the late-██████ 2023 telephone call that there was a 10-day deadline for the submission of the Appellant’s signed statement (W-1225) of her food loss.**

7. “Prior to replacing destroyed food that was purchased with Program benefits, the State agency shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit.” 7 C.F.R. § 274.6 (a)(6)(ii).

**The Appellant correctly provided the Department with an acceptable collateral contact as well as an ████████ 2023 building inspection of the premises to verify the food loss due to flood.**

8. “Replacement issuances shall be provided to households within 10 days after report of loss or within two (2) working days of receiving the signed household statement required in paragraph (a)(4) of this section, whichever date is later.” 7 C.F.R. § 274.6 (a)(5)(i).

**The Department’s ████████ 2023 denial of the Appellant’s request for replacement SNAP benefits was not timely, as the denial did not occur within 10 days after the Appellant’s report of loss in late-██████ 2023 or within two business days of receiving the ████████, 2023 statement.**

9. With respect to equitable estoppel, “as a general rule, estoppel may not be invoked against a public agency in the exercise of its governmental functions.” Kimberly-Clark Corporation v. Dubno, 203 Conn. 137, 147 (1987) (citing Zoning Commission v. Lescynski, 188 Conn. 724, 731 (1982)). However, the exception to this general rule is “where the party claiming estoppel would be subjected to a substantial loss if the public agency were permitted to negate the acts of its agents....” Kimberly-Clark, 203 Conn. at 147.

The Appellant acted in good faith by following a Department employee's verbal instruction to secure an inspection report prior to visiting the Department's local regional office to apply for the replacement SNAP benefits.

The Appellant's reliance on the Department employee's advice was detrimental to her request for replacement SNAP benefits, as the Department denied the Appellant's request as untimely, by using ██████████ 2023 as the Appellant's initial date of report rather than the actual date of the initial report of late-██████████ 2023.

The Appellant's circumstances constitute a valid claim of equitable estoppel, in accordance with Kimberly-Clark Corporation v. Dubno, 203 Conn. 137, 147 (1987).

### DISCUSSION

On ██████████ 2023, the Appellant provided completed W-1225 and W-1226 forms as well as an inspection report in person at the Department's local regional office.

On ██████████ 2023, the Department denied the Appellant's request for replacement SNAP benefits<sup>1</sup> on the basis that the Appellant had not reported the flooding incident timely, or within 10 days of the ██████████ 2023 incident; the Department operated under the assumption that ██████████ 2023 was the date of the Appellant's initial report.<sup>2</sup>

However, the Department's ██████████ 2023 Case Notes support the Appellant's testimony that she had called the Department to report her food loss prior to ██████████, 2023: "[Client] called [Benefits Center] to question why she was denied. *She said when she called to report her food loss and to request replacement, she was not told she only had 10 days to report....*" (Exhibit 3) (emphasis added) The Department has no record of that telephone call.

The hearing officer credits the Appellant's testimony that the Appellant informed a Department employee by telephone a few days after the ██████████ 2023 incident that her household had food loss, requested advice on what steps she needed to take to receive replacement SNAP benefits, and expressed her concerns as to the length of time it would take for the Appellant to get the inspection results from DEEP or the building inspector. During the conversation, the Department employee did not inform the Appellant about the 10-day deadline to submit a signed statement regarding her household's food loss. Overall, the Appellant's testimony was plausible, detailed, and consistent.

In short, the Appellant had no reason to believe that a delay in providing the written documents to the Department would adversely impact her eligibility to receive replacement SNAP benefits.

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<sup>1</sup> It should be noted that the Department failed to retain a copy of the denial notice, or W-1227, it had issued to the Appellant. (Exhibit 5)

<sup>2</sup> The W-1225 states in boldface type: "**DSS must receive this signed statement within 10 days of the date I reported my loss to DSS in order to receive food replacement.**" The W-1225 does not mention that the initial report also had to be within 10 days of the misfortune that caused the food loss.

“[A]s a general rule, estoppel may not be invoked against a public agency in the exercise of its governmental functions.” Kimberly-Clark, 203 Conn. at 147. However, the Court in Kimberly-Clark asserted that an exception applies where the party claiming estoppel would be subjected to substantial loss if the public agency were permitted to negate the acts of its agents. The person claiming the estoppel has the burden to show that she exercised due diligence to ascertain the truth and that she not only lacked knowledge of the true state of things but had no convenient means of acquiring that knowledge. The Appellant has met this burden.

To remedy its error in failing to inform the Appellant in the late-██████ 2023 telephone call of the 10-day deadline to submit a written statement of her food loss, the Department is instructed to reinstate the Appellant’s request for replacement SNAP benefits.

**DECISION**

The Appellant’s appeal is REMANDED to the Department for further action.

**ORDER**

1. The Department will reinstate the Appellant’s request for replacement SNAP benefits. With respect to the ruling of equitable estoppel, the Department will treat that request for replacement SNAP benefits as timely reported and the W-1225 as timely signed and process the request.
2. Within 10 calendar days of the date of this Decision, or ██████████ 2023, documentation of compliance with this Order is due to the undersigned. Compliance will be met by acknowledgement by the Department that it has reinstated the Appellant’s request for replacement SNAP benefits.

*Eva Tar-electronic signature*  
Eva Tar  
Hearing Officer

Cc: Marybeth Mark, DSS-Norwich  
Niurka Collado, DSS-Norwich  
Jessica Carroll, DSS-Norwich

### **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.