

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

██████████ 2023
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 225020

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notification of Overpayment and Recoupment informing her she received an overpayment of benefits under the Supplemental Nutrition Assistance Program (“SNAP”) in ██████████ 2023 of \$521.00 for which she is liable to repay.

On ██████████ 2023, the Appellant requested an administrative hearing to contest the Department’s decision to charge her with an overpayment of SNAP benefits totaling \$521.00.

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 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing via teleconference at the Appellant’s request.

The following individuals called in for the hearing:

██████████ Appellant
Javier Rivera, Department Representative
Lisa Nyren, Fair Hearing Officer

The record remained open for the submission of additional evidence from the Department. On [REDACTED] [REDACTED] 2023, the Department submitted additional evidence. On [REDACTED] [REDACTED] 2023, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to charge the Appellant with an overpayment of SNAP benefits totaling \$521.00 in [REDACTED] 2023 for which she is liable to repay was correct.

FINDINGS OF FACT

1. The Appellant receives benefits under the SNAP for a household of three: the Appellant and her two minor children. (Stipulated)
2. For [REDACTED] 2023, the Appellant received her regular monthly SNAP benefit of \$740.00 and Pandemic SNAP benefits of \$240.00 for a total deposit of \$980.00 under the SNAP. (Stipulated)
3. Each month the Department deposits SNAP benefits to an Electronic Benefit Transfer ("EBT") account held by the Appellant. Deposits to EBT accounts made by the Department are available to the Appellant on the third of each month based on her last name. (Hearing Record)
4. The Appellant accesses her SNAP benefits using an EBT card issued by the Department and a Personal Identification Number ("PIN") chosen by the Appellant. The Appellant keeps her EBT card in her wallet. The Appellant has not given anyone the authority to use her EBT card or access her SNAP benefits. (Appellant Testimony)
5. The Appellant shops regularly online for groceries for which she authorizes payment with her SNAP benefits. The Appellant shops at [REDACTED] placing online orders for grocery delivery. (Appellant Testimony)
6. On [REDACTED] [REDACTED] 2023, the following transactions were authorized from the Appellant's EBT account using EBT card number [REDACTED] ("EBT card 4146") listing the transaction location as [REDACTED] [REDACTED] for all 10 transactions. The transactions completed on this date were not reported as stolen to the Department. (Exhibit 2: EPPIC Transaction Report and Exhibit 10: EPPIC Transaction Report and Location)

Transaction Date	Transaction Time	Transaction Amount	Transaction Location
[REDACTED]/[REDACTED]/23	00:36:39	\$81.66	[REDACTED] [REDACTED] [REDACTED]

█/█/23	03:33:16	\$12.98	██████████
█/█/23	03:37:09	\$85.19	██████████
█/█/23	09:45:07	\$63.51	██████████
█/█/23	11:49:13	\$4.98	██████████
█/█/23	12:06:56	\$4.98	██████████
█/█/23	12:49:28	\$22.04	██████████
█/█/23	13:06:40	\$24.07	██████████
█/█/23	13:27:34	\$3.78	██████████
█/█/23	14:38:07	\$20.16	██████████

- 7. On ████████ 2023 at 23:56:02 (11:56 pm), the Appellant submitted an online purchase for groceries for \$32.29, but the transaction failed due to insufficient funds in her EBT account. The transaction location is ████████ ██. (Appellant Testimony, Exhibit 2: EPPIC Transaction Report, and Exhibit 10: EPPIC Transaction Report and Location)
- 8. On ████████ 2023 at 00:08:15 (12:08 am), the Appellant contacted the number on the back of her EBT card and spoke with customer service. The agent reviewed the transaction history with the Appellant noting several duplicate online ████████ transactions made in the ████████ ████████ on ████████ 2023. The Appellant reported the following transactions listed in the chart below as unauthorized by her. (Appellant's Testimony and Exhibit 2: EPPIC Transaction History)

Transaction Date	Transaction Time	Transaction Amount	Transaction Location
█/█/23	17:46:35	\$85.56	████ ██████████
█/█/23	17:47:17	\$85.56	████ ██████████
█/█/23	17:48:06	\$85.56	████ ██████████
█/█/23	17:48:46	\$85.56	████ ██████████
█/█/23	17:49:24	\$85.56	████ ██████████
█/█/23	17:52:32	\$71.30	████ ██████████ th St.

■■■■/23	17:54:09	\$21.39	■■■ ■■■ ■■■ ■■■ ■■■
Totals		\$520.49	

9. On ■■■■■■ ■ 2023, the Appellant submitted an online request for replacement SNAP benefits totaling \$521.00 reporting 5 transactions for \$85.56, one transaction for \$71.30, and one transaction for \$21.39 as stolen because the transactions occurred in ■■■■■■. Refer to Finding of Fact (“FOF”) #8 and chart. (Department Representative Testimony and Exhibit 9: Request for Replacement Benefits)
10. On ■■■■■■ ■ 2023, the Department replaced the Appellant’s EBT card 4146 with EBT card ■■■■■■ (“EBT card 4153”). The Department deactivated EBT card 4146 and issued the new EBT card 4153. (Exhibit 10: EPPIC Transaction Report and Location)
11. On ■■■■■■ ■ 2023, the Department approved the Appellant’s request to replace ■■■■■■ 2023 SNAP benefits totaling \$521.00 which she reported as stolen. Refer to FOF # 8 & 9. (Exhibit 4: Notice of Action and Exhibit 10: EPPIC Transaction Report and Location)
12. On ■■■■■■ ■ 2023, the Department issued replacement SNAP benefits of \$521.00 which were deposited in the Appellant’s EBT account. (Exhibit 10: EPPIC Transaction Report and Location)
13. On ■■■■■■ ■ 2023, the Department reversed their decision to replace the Appellant’s stolen SNAP benefits totaling \$521.00 and charged the Appellant with an overpayment of SNAP benefits totaling \$521.00. The Department determined the Appellant regularly shops at the online retail location, ■■■■■■ ■■■■■■, having made purchases prior listing this same location. Refer to FOF #'s 6 & 8 (Exhibit 5: Notification of Overpayment and Exhibit 10: EPPIC Transaction Report and Location)
14. On ■■■■■■ ■ 2023, the Department issued the Appellant a Notification of Overpayment and Recoupment. The notice stated the Appellant overpaid SNAP benefits in ■■■■■■ 2023 totaling \$521.00 due to an agency error and the Appellant liable to repay such benefits. The notice listed the options for repayment as: benefit reduction, EBT account payment, lump sum payment or installment payments. The Department listed the due date for a response as ■■■■■■ ■ 2023. (Exhibit 5: Notification of Overpayment and Recoupment)
15. The following transactions were authorized from the Appellant’s EBT account using EBT card 4153 listing the transaction location as ■■■■■■ ■■■■■■ ■■■■■■ for all 10 transactions. The transactions completed with EBT card 4153 were not reported as stolen to the

Department. (Exhibit 2: EPPIC Transaction Report and Exhibit 10: EPPIC Transaction Report and Location)

Transaction Date	Transaction Time	Transaction Amount	Transaction Location
■/■/23	17:23:18	\$82.61	■■ ■■ ■■ ■■ ■■
■/■/23	13:59:44	\$31.63	■■ ■■ ■■ ■■ ■■
■/■/23	16:40:00	\$27.07	■■ ■■ ■■ ■■ ■■
■/■/23	17:01:21	\$12.70	■■ ■■ ■■ ■■ ■■
■/■/23	17:33:39	\$33.45	■■ ■■ ■■ ■■ ■■
■/■/23	17:23:35	\$13.86	■■ ■■ ■■ ■■ ■■
■/■/23	07:30:34	\$13.96	■■ ■■ ■■ ■■ ■■
■/■/23	07:40:01	\$6.53	■■ ■■ ■■ ■■ ■■
■/■/23	08:26:28	\$2.42	■■ ■■ ■■ ■■ ■■
■/■/23	13:31:55	\$15.79	■■ ■■ ■■ ■ th St.

16. Between ■■■■■ ■■ 2023 and ■■■■■ ■■ 2023, the Appellant's EBT account was credited by the online vendor located at ■■■■■ ■■ ■■ ■■■■■ on at least nine occasions. When making food purchases online, the online vendor will credit back SNAP benefits for unavailable or not delivered items. This is listed as food stamp return. (Appellant Testimony and Exhibit 10: EPPIC Transaction Report and Location)
17. On ■■■■■ ■■ 2023, the Department re-issued the Appellant a Notification of Overpayment and Recoupment. The notice stated the Appellant overpaid SNAP benefits in ■■■■■ 2023 totaling \$521.00 due to an agency error and the Appellant liable to repay such benefits. The notice listed the options for repayment as: benefit reduction, EBT account payment, lump sum payment or installment payments. The Department listed the due date for a response as ■■■■■ ■■ 2023. (Exhibit 6: Notification of Overpayment and Recoupment)
18. The issuance of this decision is timely under Title 7 Section 273.15(c) of the Code of Federal Regulations, which requires that a decision be issued within 60 days of the request for an administrative hearing. The Appellant requested an administrative hearing on ■■■■■ ■■ 2023. However, the hearing record remained open for an additional ■-days at the request of

the fair hearing officer for which the Appellant agreed. Therefore, this decision is due not later than [REDACTED] 2023.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes ("Conn. Gen. Stat.") 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. State statute provides as follows:

If a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and shall consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

Conn. Gen. Stat. § 17b-88

3. Title IV, Section 501 of the Consolidated Appropriates Act, 2023 (the Omnibus) includes provisions for the replacement of stolen EBT benefits via card skimming, card cloning, and other similar fraudulent methods with Federal funds. State Agencies must submit plans for replacement of stolen benefits and approved plans will be incorporated into the States' Plans of Operation.

The Food and Nutrition Services ("FNS") approved Connecticut's plan for replacement of stolen benefits on April 20, 2023.

The Department's State Plan of Operation for SNAP (SNAP Policy Manual) provides for determining eligibility for replacement of SNAP

benefits which includes but not limited to a review of the claims request and a replacement determination. This includes a Notice of Action approving or denying the assistance unit's request.

Title 7 Section 274.7(c) of the Code of Federal Regulation ("C.F.R.") provides as follows:

No minimum dollar amount per transaction or maximum limit on the number of transactions shall be established. Nor shall transaction fees be imposed on SNAP households using the EBT system to access their benefits.

On [REDACTED] [REDACTED] 2023, the Department correctly determined the Appellant ineligible for replacement of stolen benefits under the SNAP effectively reversing their initial approval for replacement on [REDACTED] [REDACTED] 2023. A thorough review of EBT transactions completed by the Appellant with EBT card 4146 and EBT card 4153 along with testimony provided by the Appellant verify the Appellant routinely makes online purchases with the online vender [REDACTED] located at [REDACTED] [REDACTED] for various amounts throughout the day. The EPPIC transaction report confirms the Appellant's purchases with the online retailer prior to her report of stolen benefits and her purchases with the online retailer upon receipt of EBT card 4153. Refer to FOF's #'s 6, 8, & 15. The Department's failure to complete a thorough investigation of the Appellant's EBT transactions resulted in the inappropriate approval of the replacement of stolen SNAP benefits on [REDACTED] [REDACTED] 2023 and the improper load authorization of SNAP benefits totaling \$521.00 on [REDACTED] [REDACTED] 2023.

4. "A recipient claim is an amount owed because of: Benefits that are overpaid." 7 C.F.R. § 273.18(a)(1)(i)

"This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations." 7 C.F.R. § 273.18(a)(2)

"The following are responsible for paying a claim: Each person who was an adult member of the household when the overpayment or trafficking occurred." 7 CFR 273.18(a)(4)(i)

Federal regulation provides as follows:

There are three types of claims:

1. An Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16.
2. An Inadvertent household error (IHE) claim is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
3. Agency error (AE) claim is any claim for an overpayment caused by an action or failure to take action by the State agency.

7 C.F.R. § 273.18(b)

On [REDACTED] [REDACTED] 2023, the Department correctly determined the Department overpaid the Appellant under the SNAP when the Department approved the Appellant's request to replace SNAP benefits reported as stolen because the Appellant received replacement benefits for which she was not entitled to in [REDACTED] 2023. The Department correctly determined the overpayment as agency error.

Although the Department's error resulted in the overpayment, this is a federal debt and under federal regulations the Appellant is responsible for paying the claim.

5. "The actual steps for calculating a claim are subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment." 7 C.F.R. § 273.18(c)(1)(ii)(c)

The Department correctly determined the total overpayment claim as \$521.00 for [REDACTED] 2023.

\$521.00 SNAP Replacement Benefit Received - \$00.00 Correct Benefit/SNAP Replacement Benefit Entitled To = \$521.00 SNAP Overpayment Claim

6. "Each State agency must develop and mail or otherwise deliver to the household written notification to begin collection action on any claim." 7 C.F.R. § 273.18(e)(3)(i)

On [REDACTED] [REDACTED] 2023, the Department correctly issued the Appellant a Notification of Overpayment and Recoupment Letter informing her of the overpayment claim and options to repay.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: Angelica Branfalt, SSOM RO #11
Nawaz Shaikh, FH Supervisor RO #11
Javier Rivera, FHL RO #11

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.