

**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: 226201

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2023, the Department of Social Services (the "Department") issued [REDACTED] [REDACTED] (the "Appellant") \$582.00 in Supplemental Nutrition Assistance Program ("SNAP") replacement benefits for the service months of [REDACTED] 2023 and [REDACTED] 2023.

On [REDACTED] 2023, the Appellant faxed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to request \$2,125.34 in SNAP replacement benefits for the service months from [REDACTED] 2023 through [REDACTED] 2023.

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, and Section 273.15 (a) of Title 7 of the Code of Federal Regulations ("C.F.R."), the OLCRAH held an administrative hearing by telephone conferencing. The following individuals participated:

[REDACTED], Appellant
Kathleen George, 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 is ineligible to receive \$2,125.34 in SNAP replacement benefits for the service months from [REDACTED] 2023 through [REDACTED] 2023.

FINDINGS OF FACT

1. The Appellant is a SNAP recipient. (Exhibits 1, 2, 3, 4, and 5)
2. At all times, the Appellant retained her physical SNAP EBT [Electronic Benefits Transfer] card. (Appellant Testimony)
3. On [REDACTED] 2023, the Department's internal Program Oversight & Grant Administration (POGA) notified all agency staff that effective immediately, the Department was piloting a new process for replacing stolen SNAP benefits due to a change in federal law. (Exhibit 5)
4. The [REDACTED] 2023 POGA communication instructed agency staff that the Department would retroactively replace SNAP benefits that had been taken from clients' SNAP EBT cards due to skimming, cloning, or other fraudulent methods in the period from [REDACTED] [REDACTED] 2022 through [REDACTED] 2023, so long as the clients reported the theft to the Department by [REDACTED] 2023. (Exhibit 5)
5. The [REDACTED] 2023 POGA communication instructed agency staff that for SNAP benefits stolen on or after [REDACTED] 2023, the clients would have only 30 days to report the theft in order to qualify for SNAP replacement benefits. (Exhibit 5)
6. On or before [REDACTED] 2023, the Appellant went to live with her other daughter in Virginia. The Appellant regularly stays two months in Connecticut, then spends two or three months with her other daughter in Virginia, then returns to Connecticut for two or three months. (Appellant Testimony)
7. The Appellant failed to notify the Department that she had left Connecticut to live with her other daughter in Virginia. (Department Representative Testimony)
8. The Appellant did not access her SNAP EBT benefits while she was living with her other daughter in Virginia. (Appellant Testimony)
9. On [REDACTED] 2023, the Department issued \$291.00 to the Appellant's SNAP EBT account. (Exhibit 5)
10. On [REDACTED] 2023, a total of \$292.93 of the Appellant's SNAP benefits were taken from her SNAP EBT account to pay for purchases in New York. (Department Representative Testimony) (Exhibit 5)

11. On [REDACTED] 2023, \$7.26 of the Appellant's SNAP benefits were taken from her SNAP EBT account to pay for purchases in Arizona. (Department Representative Testimony) (Exhibit 5)
12. On [REDACTED] 2023, the Department issued \$291.00 to the Appellant's SNAP EBT account. (Exhibit 5)
13. On [REDACTED] 2023, \$289.97 of the Appellant's SNAP benefits were taken from her SNAP EBT account to pay for purchases in New York. (Department Representative Testimony) (Exhibit 5)
14. On [REDACTED] 2023, the Appellant discovered that her SNAP benefits had been stolen from her SNAP EBT account. (Exhibit 5)
15. On [REDACTED] 2023, the Appellant reported to the Department that her SNAP benefits had been stolen and requested a new SNAP EBT card. (Exhibits 4 and 5)
16. Following the Appellant's [REDACTED] 2023 report to the Department, no transactions were completed on the Appellant's SNAP EBT card due to insufficient funds. (Department Representative Testimony)
17. On [REDACTED] 2023, the Appellant signed and submitted a Form W-3037: *Request for Replacement of Stolen SNAP Benefits* to the Department; the Appellant claimed that more than \$2,000.00 had been stolen from her SNAP EBT account since [REDACTED] 2023. (Exhibits 2 and 5)
18. On [REDACTED] 2023, the Appellant's daughter filed a police report with the [REDACTED] Police Department reporting that the Appellant's SNAP EBT card having been used outside of Connecticut. (Hearing request)
19. On [REDACTED] 2023, the Department issued a *Notice of Action* to the Appellant, finding her eligible to receive \$582.00 in SNAP replacement benefits. (Exhibit 3)
20. On or around [REDACTED] 2023, the Department issued the Appellant a new SNAP EBT card. (Exhibit 4)
21. On [REDACTED] 2023, the Department issued \$582.00 in SNAP replacement benefits to the Appellant's SNAP EBT account. (Exhibit 5)
22. On [REDACTED] 2023, the Appellant faxed a request for an administrative hearing asking for SNAP replacement benefits from [REDACTED] 2023 through [REDACTED] 2023 totaling \$2,125.34. (Hearing request)
23. The Appellant's \$2,125.34 calculation of the amount of her stolen SNAP benefits did not incorporate a deduction for the \$582.00 in SNAP replacement benefits that the Department had issued to her on [REDACTED] 2023. (Hearing request)

24. 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....” The OLCRAH received the Appellant’s faxed hearing request on [REDACTED] 2023, requiring the hearing to be held and a decision issued by [REDACTED] 2024. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services 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 in Connecticut.

2. Title 7, Code of Federal Regulations (“C.F.R.”), Section 274.1 (a) provides; “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.”

“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.” 7 C.F.R. § 274.1 (b)(1).

The Department provides SNAP benefits to Connecticut recipients through the issuance and use of EBT cards.

3. “A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in [§ 271.2 of this chapter](#)) or office within the State....” 7 C.F.R. § 273.3 (a).

For the months when the Appellant resided with her other daughter in Virginia, the Appellant was not a resident of Connecticut.

It cannot be determined from the hearing record whether the Appellant was a resident of Connecticut from [REDACTED] 2023 through [REDACTED], 2023.

4. Title 7, Code of Federal Regulations, Section 274.6 addresses replacement issuances and cards to households.

“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).

5. Title IV, Section 501 of the Consolidated Appropriations Act, 2023 requires that the Food and Nutrition Service (FNS) issue guidance to state agencies and promulgate regulations to protect and replace SNAP benefits stolen via card skimming, card cloning, and other similar fraudulent methods. State agencies must submit plans that address how state agencies will process household claims of stolen benefits to be submitted to FNS.

As the administrator of the SNAP in Connecticut, the Department had the authority and responsibility to submit a State Plan to the Federal Food and Nutrition Service to comply with Title IV, Section 501 of the Consolidated Appropriations Act, 2023.

Upon approval by the Federal Food and Nutrition Service, the Department was required to implement the State Plan.

The ████████ 2023 POGA is the Department’s internal dissemination of the State Plan’s procedures for processing household claims of stolen benefits to its staff.

6. “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).

“Control of issuance documents. The State agency shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the State agency. The State agency shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process.” 7 C.F.R. § 274.6 (b)(2)

7. The Connecticut State Plan for the Replacement of Stolen EBT Benefits, 2023, as submitted on February 27, 2023, cites as its authority the Consolidated Appropriations Act, 2023. The Plan provides: “Households have thirty (30) calendar days from the date they discovered that their benefits were stolen as a result of card skimming, cloning, or similar fraudulent methods to make their initial report to [the Department]. ... Claims will be denied for any of the following reasons: ... The household did not report their stolen benefits to [the Department] within 30 calendar days of discovering the theft....”

As outlined in the June 5, 2023 POGA communication to agency staff, should clients report to the Department by July 2, 2023 a theft of SNAP benefits in the period from October 1, 2022 through June 1, 2023 due to skimming, cloning, or other fraudulent methods, the Department would be permitted to issue the clients SNAP replacement benefits.

The Department correctly determined that the Appellant is ineligible to receive an additional \$1,543.34 in SNAP replacement benefits for benefits stolen from her SNAP EBT account from [REDACTED] 2023 through [REDACTED] 2023, as she did not report those losses to the Department until [REDACTED] 2023.

The Appellant is eligible for up to two months' worth of SNAP replacement benefits to replace benefits stolen from her SNAP EBT account from [REDACTED] 2023 through [REDACTED] 2023.

8. The Connecticut State Plan for the Replacement of Stolen EBT Benefits, 2023, provides: "Replacement benefits due to theft cannot exceed the amount of two months of SNAP benefits or the amount of my [sic] actual reported loss, whichever is less."

The Appellant's loss of SNAP benefits due to theft from [REDACTED] 2023 through [REDACTED] 2023 equaled \$590.16.

The maximum SNAP replacement benefits the Appellant is eligible to receive in accordance with the Connecticut State Plan for the Replacement of Stolen EBT Benefits is \$582.00, i.e., the equivalent of two months of her maximum \$291.00 SNAP benefit.

The Department's action to grant \$582.00 in SNAP replacement benefits for [REDACTED] 2023 through [REDACTED] 2023 is supported by federal regulations governing the SNAP as permitted by the Connecticut State Plan for the Replacement of Stolen EBT Benefits.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Kathleen George, DSS-Hartford
Wilfredo Medina, DSS-Hartford
Josephine Savastra, DSS-Hartford
Lindsey Collins, DSS-Hartford
Mathew Kalarickal, DSS-Hartford

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.