

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

██████████ 4, 2024
Signature Confirmation

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

NOTICE OF CORRECTED 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.

On [REDACTED] [REDACTED] 2023, the Appellant requested reconsideration of the hearing decision.

On [REDACTED] [REDACTED] 2023, the OLCRAH granted the Appellant's request for reconsideration.

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
■/■/23	00:36:39	\$81.66	■■■■■■ ■■ ■■
■/■/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 a customer service agent. The agent reviewed the transaction history with the Appellant noting several duplicate online ■■■■■■ transactions made in the ■■■■■■■■■■■■ on ■■■■■■ 2023 just prior to her transaction for \$32.29. 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 (5:46 pm)	\$85.56	■■■ ■■■ ■■■ ■■ ■■
■/■/23	17:47:17 (5:47)	\$85.56	■■■ ■■■ ■■■ ■■ ■■

	pm)		
■/■/23	17:48:06 (5:48 pm)	\$85.56	■ ■ ■ ■ ■
■/■/23	17:48:46 (5:48 pm)	\$85.56	■ ■ ■ ■ ■
■/■/23	17:49:24 (5:48 pm)	\$85.56	■ ■ ■ ■ ■
■/■/23	17:52:32 (5:52 pm)	\$71.30	■ ■ ■ ■ ■
■/■/23	17:54:09 (5:54 pm)	\$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 [REDACTED] 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 [REDACTED] 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
[REDACTED]/[REDACTED]/23	17:23:18 (5:23 pm)	\$82.61	[REDACTED]
[REDACTED]/[REDACTED]/23	13:59:44 (1:59 pm)	\$31.63	[REDACTED]
[REDACTED]/[REDACTED]/23	16:40:00 (4:40 pm)	\$27.07	[REDACTED]
[REDACTED]/[REDACTED]/23	17:01:21 (5:01 pm)	\$12.70	[REDACTED]
[REDACTED]/[REDACTED]/23	17:33:39 (5:33 pm)	\$33.45	[REDACTED]
[REDACTED]/[REDACTED]/23	17:23:35 (5:23 pm)	\$13.86	[REDACTED]
[REDACTED]/[REDACTED]/23	07:30:34 (7:30 am)	\$13.96	[REDACTED]
[REDACTED]/[REDACTED]/23	07:40:01 (7:40 am)	\$6.53	[REDACTED]
[REDACTED]/[REDACTED]/23	08:26:28 (8:26 am)	\$2.42	[REDACTED]
[REDACTED]/[REDACTED]/23	13:31:55 (1:31 pm)	\$15.79	[REDACTED]

16. Between [REDACTED] 2023 and [REDACTED] 2023, the Appellant's EBT account was credited by the online vendor located at [REDACTED] 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 [REDACTED] 2023, the Department re-issued the Appellant a Notification of Overpayment and Recoupment. The notice stated the Appellant overpaid SNAP benefits in [REDACTED] 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 Section 4-181a(a)(3) of Connecticut General Statute which requires that a decision be issued within 90 days of following the date on which the Department granted reconsideration of the final decision. On ██████████ 2023, the Department granted reconsideration of the final decision. Therefore, this decision is due not later than ██████████ 2024.

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 stolen SNAP benefits.

The SNAP Policy Manual defines stolen benefits as SNAP benefits that are taken from an EBT card due to skimming, cloning or other fraudulent methods.

The SNAP Policy Manuals provides for determining eligibility for replacement of stolen SNAP benefits as follows:

1. EDG's have 30 calendar days from the date they discovered their benefits were stolen to request a replacement.
2. Once an EDG reports a loss of benefits, DSS will immediately (but no later than 5 business days) advise the EDG to complete the Request for Replacement of Stolen SNAP Benefits from (W-3037/W3037S).
3. A case note must be entered along with the date the Request for Replacement of Stolen SNAP Benefits Form (W-3037/W-3037S) was issued.
4. EDGs must be notified that they must change their PIN number or may request a new EBT card prior to replacement benefits being issued.
5. The EDG will have 10 calendar cays from the date the form is sent to complete and return the Request for Replacement of Stolen SNAP Benefits form via mail, in person, or online.
6. DSS will have 30 business days from receipt of the Request for Replacement of Stolen SNAP Benefits form to review claims requests, make a replacement determination, and issue replacement benefits, if appropriate.
7. Replacement benefits due to theft cannot exceed the amount of two months' of SNAP benefits or the amount of the actual reported loss, whichever is less.
8. Benefits lost due to theft cannot be replaced more than two times in a federal fiscal year (FFY) running October-September.
9. Depending on the outcome, DSS will either issue approved replacement benefits or issue a denial. In either instance, the Notice of Action – Request for Replacement of Stolen Benefits letter (W-3036N/W-3036NS) will be issued to the EDG.
10. If the EDG disagrees with determination, they must request a fair hearing within ninety (90) days.

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.

Based on the hearing record, whether or not the [REDACTED] 2023 online transactions listed below were unauthorized by the Appellant cannot be determined. The Department failed to complete a thorough review of the Appellant's EBT account activity prior to their approval of replacement SNAP benefits. The Department failed to review the online transactions with the Appellant or contact the online retailer to obtain additional customer information which may be held by the online retailer prior to authorizing a replacement of SNAP benefits as the Appellant routinely makes online purchases with the online retailer [REDACTED] located at [REDACTED] [REDACTED] [REDACTED] for various amounts throughout the day as her transaction history demonstrates. However there is little evidence linking the [REDACTED] 2023 transactions as noted below to the Appellant other than the EPPIC EBT transaction report showing online purchases were made with her EBT card. The Appellant continues to claim she did not make multiple transactions for the exact same amount back to back on [REDACTED] 2023. The Department's failure to complete a thorough investigation of the Appellant's EBT transactions resulted in the approval of the replacement of stolen SNAP benefits on [REDACTED] 2023 and the load authorization of SNAP benefits totaling \$521.00 on [REDACTED] 2023. Further review of the Appellant's [REDACTED] 2023 transactions with the online retailer and the Appellant's claim her EBT account was accessed without her authorization is warranted.

Transaction Date	Transaction Time	Transaction Amount	Transaction Location
[REDACTED]/[REDACTED]/23	17:46:35 (5:46 pm)	\$85.56	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]/[REDACTED]/23	17:47:17 (5:47 pm)	\$85.56	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]/[REDACTED]/23	17:48:06 (5:48 pm)	\$85.56	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]/[REDACTED]/23	17:48:46 (5:48 pm)	\$85.56	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

■/■/23	17:49:24 (5:48 pm)	\$85.56	■ ■ ■ ■ ■
■/■/23	17:52:32 (5:52 pm)	\$71.30	■ ■ ■ ■ ■
■/■/23	17:54:09 (5:54 pm)	\$21.39	■ ■ ■ ■ ■
Totals		\$520.49	

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)

Based on the hearing record, whether the Department overpaid the Appellant SNAP benefits on ■■■■■ ■■ 2023 in the amount of \$521.00 cannot be determined. Further review of the Appellant's claim that her SNAP EBT account was access without her permission and the ■■■■■ ■■ 2023 purchases made online with ■■■■■ were not authorized. Further review of the Appellant's eligibility for replacement of stolen SNAP benefits is required before a determination of an overpayment claim can be made by the Department.

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)

Based on the hearing record, the total overpayment claim cannot be determined until the Department completes a thorough review of the Appellant's eligibility for replacement of stolen SNAP benefits.

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] 2023, the Department incorrectly issued the Appellant a Notification of Overpayment and Recoupment Letter informing her of the overpayment claim and options to repay. Based on the hearing record, the Department failed to establish an overpayment claim.

DECISION

The Appellant's appeal is remanded back to the Department for further review.

ORDER

1. The Department must complete a thorough review of the Appellant's [REDACTED] 2023 claim request for replacement of stolen SNAP benefits equaling \$521.00 for online transactions made on [REDACTED] 2023 at [REDACTED] by contacting the online retailer for additional customer information associated with the [REDACTED] 2023 transactions and complete a replacement determination of eligibility.
2. Upon completion of a new determination of eligibility for replacement of stolen SNAP benefits, the Department must issue the Appellant a Notice of Action – Request for Replacement of Stolen Benefits letter (W-3036N/W-3036NS).
3. Dependent on the outcome of the Department's new review of the Appellant's [REDACTED] 2023 request for replacement of [REDACTED] 2023 stolen SNAP benefits, the Department can then determine whether or not the Appellant received an overpayment of SNAP benefits, if appropriate, and issue a new notice to the Appellant.
4. Compliance is due 14-days from the date of this decision.

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.