

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

[REDACTED] 2024
Signature Confirmation

[REDACTED]
[REDACTED]
Request # 235520

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2024, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying her request for \$292.44 in Replacement Stolen Supplemental Nutritional Assistance Program ("SNAP") benefits.

On [REDACTED] 2024, the Appellant requested an administrative hearing to contest the Department's decision to deny replacing the SNAP benefits.

On [REDACTED] 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED] 2024.

On [REDACTED] 2024, the Appellant requested the hearing to be rescheduled.

On [REDACTED] 2024, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2024.

On [REDACTED] 2024, 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. The following individuals were present at the hearing:

[REDACTED], Appellant
[REDACTED] Social Worker, [REDACTED], Appellant's Witness
[REDACTED], Interpreter, [REDACTED]

Christopher Kinney, Department's Representative
Carla Hardy, Hearing Officer

The hearing record remained open to allow the Hearing Officer to submit a copy of the Date Calculator to the Appellant and the Department and for the Appellant and the Department to comment. The hearing record closed on [REDACTED] 2024.

A copy of this hearing decision will be translated in [REDACTED] and mailed at a later date.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's Replacement of Stolen SNAP benefits was correct.

FINDINGS OF FACT

1. The Appellant is a SNAP recipient. She is the only person in her SNAP household. (Hearing Record)
2. On [REDACTED] 2024, the following transactions were conducted with the Appellant's SNAP EBT account. (Exhibit 1: Recipient Transaction History)

Date	Time	Amount
[REDACTED]/24	10:59 am	\$87.44
[REDACTED]/24	11:02 am	\$56.46
[REDACTED]/24	11:04 am	\$98.77
[REDACTED]/24	11:11 am	\$49.77
Total		\$292.44

3. The Appellant did not initiate the above transactions. (Appellant's Testimony)
4. The above transactions were conducted in the state of New York. (Department's Testimony)
5. On [REDACTED] 2024, at 7:25 pm, the Appellant tried to use \$208.73 of her [REDACTED] SNAP benefits. She was notified that she had insufficient funds for the transaction. (Exhibit 1: Recipient Transaction History, Appellant's Testimony, Appellant's Exhibit B: Hearing Request)
6. On an unspecified date, the Appellant called [REDACTED], her social worker ("the social worker") at [REDACTED] to report the loss of her SNAP benefits. (Appellant's Testimony)

7. On [REDACTED] 2024, the Appellant and the social worker called the Department's EBT center to report her stolen SNAP benefits. The Appellant waited for a new EBT card and the replacement of her stolen SNAP. (Appellant's Exhibit B)
8. On [REDACTED] 2024, at 12:13 p.m., the Department listed the Appellant's EBT card as stolen. (Exhibit 1: Transaction History)
9. On [REDACTED] 2024, the Department issued a replacement EBT card. (Exhibit 1)
10. On [REDACTED] 2024, the social worker called the Department's EBT contractor regarding the stolen benefits. She was notified that the Appellant must complete and submit a request for stolen SNAP benefits form. The social worker printed the document but was unable to submit the form online. (Exhibit B)
11. On [REDACTED] 2024, the Appellant brought the Request for Replacement of Stolen SNAP Benefits ("W3037) to the [REDACTED] Service Center. (Exhibit 2: W3037, Exhibit B)
12. The Department received the W3037 form 32 days after the Appellant discovered her SNAP was stolen on [REDACTED] 2024. (Hearing Officer's Exhibit Z1: Date Calculator Query)
13. On [REDACTED] 2024, the Department issued the Appellant a Notice of Action denying her request for the Replacement of Stolen SNAP benefits for \$292.44 because she did not report her stolen benefits to the Department within 30 days of discovering the theft. (Exhibit 3: NOA, Appellant's Exhibit A: NOA)
14. The Department does not know how and when they were notified that the Appellant's SNAP benefits were stolen but knows it was some time in [REDACTED]. (Department's Testimony)
15. The Department does not know the complete process that the Department follows when a client notifies them that SNAP benefits were stolen. (Department's Testimony)
16. When the Appellant notifies the Department that SNAP was stolen, the Department mails out a form that the Appellant has 10 days to return. (Department's Testimony)
17. The Department does not know when or how the Appellant was notified that she must complete a Request for Replacement Stolen SNAP benefits form. (Department's Testimony)

18. The Department did not provide evidence that the Appellant was notified that she must complete the Request for Replacement Stolen SNAP benefits form prior to [REDACTED] 2024. (Hearing Record)
19. The Department determined that \$292.44 in SNAP was stolen from the Appellant's SNAP EBT card. (Department's Testimony)
20. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which states that a decision must be reached, and the household notified within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2024. Therefore, the decision is due [REDACTED] 2024. However, the hearing was rescheduled at the request of the Appellant causing a 15-day delay; therefore, the hearing is due no later than [REDACTED] 2024. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. State.") § 17b-2(7) provides 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.

The Department has the authority to review the Applicant's SNAP benefit replacement request and determine whether the Appellant meets the program's eligibility requirements for replacement benefits.

2. Title 7 of the Code of Federal Regulations ("C.F.R.") section 274.1(a) and (b) provides for 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.
3. Title 7 C.F.R. § 274.2(f) provides 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 nonforwarding 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 determined the Appellant's SNAP Benefits were paid by EBT.

4. Title 7 C.F.R. § 274.2(g)(2) provides for Adjustments. 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 were correctly deposited into her EBT account and were not lost because of Departmental error or malfunction of the EBT system.

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.

The Department has the authority and responsibility to submit a State Plan to the FNS to comply with Title IV, Section 501 of the Consolidated Appropriations Act, 2023.

Once approved by FNS, the Department's State Plan requires implementation.

The Department's June 5, 2023, internal correspondence from the Division of Program Oversight and Grant Administration ("POGA") provides the procedure for processing household claims of stolen SNAP benefits to its staff.

6. The State Plan for the Replacement of Stolen EBT Benefits Consolidated Appropriations Act 2023 provides that upon approval of this plan, households will have thirty (30) calendar days to submit a claim for benefits stolen prior to the date of approval. This information will be communicated through the state's social media posts, website, and up-

front Interactive Voice Response (IVR) telephone system. In addition, an email will be sent to the legal and advocate communities, as well as state partners informing them of this same information with additional guidance around what is needed to request and substantiate a claim or reimbursement of stolen benefits.

In addition, DSS will attempt to contact those individuals who previously reported their benefits stolen between October 1, 2022, and the date of plan approval through direct mailings, providing them information about the requirements, procedures, and timeline to provide information for replacement benefits. The State will use the same application, validation process, and timeliness, processing, and distribution of benefits criteria described below to issue retroactive benefits as it will non-retroactive claims.

Households have thirty (30) calendar days from the date they discovered that their benefits were stolen because of card skimming, cloning, or similar fraudulent methods to make their initial report to DSS. Households may do this via the telephone, through the mail, or in person at any DSS field office. When an initial report is received, a case note will be entered by the staff member who received it along with the date the *Request for Replacement of Stolen SNAP Benefits Form* (Appendix A) was sent. The household will have ten (10) calendar days from the date the form is sent to complete and return the *Request for Replacement of Stolen SNAP Benefits* form via mail or in person.

If the household comes into a DSS office to report a claim of stolen benefits, they will be provided the *Request for Replacement of Stolen SNAP Benefits Form* and given the option to complete and submit the form at that time or to take the form with them for later completion.

The household will have ten (10) calendar days from the date of the visit, which will be noted in the case notes, to complete and return the *Request for Replacement of Stolen SNAP Benefits* form via mail or in person.

Validation of Criteria

By requesting replacement benefits on the Request for Replacement of Stolen SNAP benefits form, the household must attest that they understand the following:

- 1) Have 30 calendar days from the date they discovered their benefits were stolen to request a replacement.

2) Replacement benefits due to theft cannot exceed the amount of two months of SNAP benefits for the amount of my actual reported loss, whichever is less.

3) DSS must receive this signed form within 10 calendar days of the date it was sent by DSS to receive SNAP replacement benefits.

4) Benefits lost due to theft cannot be replaced more than two times in a federal fiscal year; and

5) Benefits replacement claims can only be made for thefts that occurred between 10/1/2022 through 9/30/2024.

As well as that if they have knowingly given incorrect information about the facts stated above, they may be charged with an intentional program violation (IPV) and may be subject to civil and criminal penalties including, but not limited to, perjury for a false claim. Finally, that they understand that they have the right to a Fair Hearing if they disagree with the decision to replace benefits made by DSS.

Validation-Denial of Claims

Claims will be denied for any of the following reasons:

- The household already received replacement benefits two times in the respective federal fiscal year.
- The household did not report their stolen benefits to DSS within thirty (30) calendar days of discovering the theft.
- The household did not provide the signed *Request for Replacement of Stolen SNAP Benefits* form within the required ten (10) calendar days.
- The state was unable to validate the claim that the benefits were stolen as a result of card skimming, cloning, or similar fraudulent methods.
- The state was unable to validate the claim that the benefits were stolen outside of the allowable timeframe, 10/1/2022-9/30/2024.

The Appellant reported the stolen SNAP benefits on [REDACTED] 2024, when she contacted the Department. This was three days after she discovered they were stolen.

The Department did not provide documentation of when they issued the Request for Replacement of Stolen SNAP benefits form to the Appellant.

On [REDACTED] [REDACTED] 2024, the Department incorrectly denied the Appellant's request to replace her missing SNAP benefits because

the Appellant did not report the missing SNAP benefits within 30 days from the date, she discovered the benefits were stolen.

DECISION

The Appellant's appeal is **GRANTED.**

ORDER

1. The Department shall rescind the [REDACTED] 2024, denial of Replacement Stolen SNAP Benefits notice.
2. The Department shall process the Appellant's request as received timely.
3. Compliance with this order is due to the undersigned no later than [REDACTED] 2024.

Carla Hardy
Carla Hardy
Hearing Officer

Pc: Josephine Savastra, Lindsey Collins, Mathew Kalarickal, David Mazzone, SSOM; Christopher Kinney, Department's Representative

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.