

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

[REDACTED] 2024
Signature Confirmation

[REDACTED]
[REDACTED]
Request #: 238653

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2024, the Department of Social Services (the "Department") issued a Notification of Overpayment and Recoupment of the Supplemental Nutritional Assistance Program to [REDACTED] (the "Appellant"), indicating she had been overpaid \$1,644.00 in Supplemental Nutritional Assistance Program ("SNAP") benefits and that she must repay the overpayment.

On [REDACTED] 2024, the Appellant requested an administrative hearing to contest the SNAP recoupment of the overpayment.

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, in accordance with sections 17b-60, 17-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, OLCRAH held an in person administrative hearing.

The following individuals participated in the hearing:

[REDACTED], Appellant
Claudene Reid, Department's Representative
Amy MacDonough, Hearing Officer

The record remained open for the submission of additional documents by both the Department and the Appellant. On [REDACTED] 2024, the Appellant submitted the following document: Social Security Letter. On [REDACTED] 2024, the Department submitted the following documents: Case Notes; NOA, [REDACTED] 2024; NOA, [REDACTED] 2024; Benefit History Search; Benefit Issuance Details; EBT Transaction History, and Overpayment Activity History. On [REDACTED] 2024, the record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly determined the Appellant was overpaid \$1,644.00 in SNAP benefits and whether the Department's recoupment of the SNAP overpayment is correct.

FINDINGS OF FACT

1. On [REDACTED] 2024, the Appellant went to the [REDACTED] Regional Office to apply for SNAP benefits for a household of two (2), herself and an unrelated [REDACTED]-year-old child, [REDACTED]. The child moved to Connecticut in [REDACTED] 2024 to live with the Appellant. (*Department's Testimony; Appellant's Testimony; Exhibit 3: Case Notes*)
2. On [REDACTED] 2024, the Department experienced an issue with their eligibility system and were unable to process the Appellant's application. (*Department's Testimony; Exhibit 3*)
3. On [REDACTED] 2024, the Department made changes to the Appellant's household status and relationship screens regarding her adult son, [REDACTED]. The Department continued to receive error messages on the Appellant's case. (*Exhibit 3*)
4. On [REDACTED] 2024, the Department removed the Appellant's son from the case and authorized the Appellant's case. (*Exhibit 3*)
5. On [REDACTED], 2024, the Department issued a NOA to the Appellant showing SNAP benefits were approved for the benefit period start date of [REDACTED] 2018 through [REDACTED] 2018, for the Appellant and [REDACTED]. The notice stated an ongoing approval through [REDACTED], 2019. (*Exhibit 4: NOA, [REDACTED]/2024*)
6. On [REDACTED] 2024, the Department deposited SNAP benefits in the amount of \$1,644.00 (\$324.00 [REDACTED]/2018+ \$324.00 [REDACTED] 2018+ \$332.00 [REDACTED] 2018+ \$332.00 [REDACTED]/2018= \$1,644.00) on to the Appellant's electronic benefit transfer ("EBT") card, ending in [REDACTED]. The benefits were listed for two (2) household members, the Appellant and [REDACTED]. (*Department's Testimony; Exhibit 6: Benefit History Search; Exhibit 7: Benefits Issuance Details; Exhibit 8: EBT Transaction History*)

7. [REDACTED] was not a member of the Appellant's household in 2018. (*Appellant's Testimony; Exhibit 3*)
8. On or around [REDACTED] 2024, the Department received a phone call from the Appellant reporting stolen SNAP benefits. This prompted the Department to review the Appellant's SNAP benefits and certification period. (*Department's Testimony; Exhibit 3*)
9. The Appellant did not report her SNAP benefits as stolen. The Appellant received and used the SNAP benefits of \$1,644.00. (*Appellant's Testimony; Exhibit 6; Exhibit 7; Exhibit 8*)
10. On [REDACTED] 2024, the Department entered the Appellant's [REDACTED] 2024, application, as it had not previously been entered into the eligibility system due to a system error. The Department completed a phone interview with the Appellant. The Department issued a NOA denying the Appellant's SNAP for the following reasons: You asked to have your benefits stopped or to have your application withdrawn, no household members are eligible for this program, and does not meet program requirements. (*Department's Testimony; Exhibit 3; Exhibit 5: NOA, [REDACTED]/2024*)
11. The Appellant did not ask to have her SNAP application withdrawn as she had only just applied and needed assistance while waiting on approval of Social Security benefits. (*Appellant's Testimony*)
12. On [REDACTED] 2024, the Department's claims unit received a referral for an overpayment on the Appellant's SNAP benefits in the amount of \$1,644.00. The Department reviewed the claim and determined that the Appellant was not eligible for the period the benefits were issued for.

| Benefit month | Benefit amount | Benefit issued |
|---------------------------------|----------------|-----------------|
| [REDACTED]/2018-[REDACTED]/2018 | \$324.00 | [REDACTED]/2024 |
| [REDACTED]/2018-[REDACTED]/2018 | \$324.00 | [REDACTED]/2024 |
| [REDACTED]/2018-[REDACTED]/2018 | \$332.00 | [REDACTED]/2024 |
| [REDACTED]/2018-[REDACTED]/2018 | \$332.00 | [REDACTED]/2024 |
| [REDACTED]/2018-[REDACTED]/2018 | \$332.00 | [REDACTED]/2024 |
| Total: | \$1,644.00 | |

(*Exhibit 2: Notification of Overpayment and Recoupment; Exhibit 3; Exhibit 4*)

13. On [REDACTED] 2024, the Department issued the Appellant a Notification of Overpayment and Recoupment notice stating the Appellant received an overpayment from the SNAP in the amount of \$1,644.00, for the benefit issuance period of [REDACTED] 2024, through [REDACTED] 2024. The overpayment type was due to an Agency Error, as the Department granted these benefits in error. (*Exhibit 2*)
14. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.15, which provides that within 60 days of the receipt for a fair hearing, the State agency shall issue a decision. The Appellant requested an administrative

hearing on [REDACTED] 2024. With the 5 delay days, this decision is due no later than [REDACTED] 2024.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutritional assistance program pursuant to the Food and Nutrition Act of 2008.

The Department has the authority to review and determine eligibility for the SNAP.

2. Section 17b-88 of the Connecticut General Statutes provides for Overpayments, Recoupment, and Administrative disqualification hearings and states 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.
3. 7 C.F.R. § 273.18(a)(1)(i) provides a recipient claim is an amount owed because of benefits that are overpaid.

The Department has the authority to claim SNAP benefits that are overpaid.

4. 7 C.F.R. § 273.18(a)(2) provides 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)(3) provides as a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

7 C.F.R. § 273.18(a)(4) provides the following are responsible for paying a claim: (i) each person who was an adult member of the household when the overpayment or trafficking occurred; (ii) a person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

The Department correctly determined that the Appellant is the head of household for the SNAP award and is responsible for repayment of the SNAP overpayment claim.

5. 7 C.F.R. § 273.18(b) provides for types of claims and states there are three types of claims: (1) 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) 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.

The Department correctly determined the SNAP overpayment claim as an agency error.

6. 7 C.F.R. § 273.18(e)(3) provides for notification of claim and states (i) each State agency must develop and mail or otherwise deliver to the household written notification to begin collection action on any claim. (ii) The claim will be considered established for tracking purposes as of the date of the initial demand letter or written notification. (iii) If the claim or the amount of the claim was not established at a fair hearing, the State agency must provide the household with a one-time notice of adverse action. The notice of adverse action may either be sent separately or as part of the demand letter.

On [REDACTED] 2024, the Department correctly issued a Notification of Overpayment and Recoupment to the Appellant informing her of the overpayment claim.

7. 7 C.F.R. § 273.18(c)(1)(i) provides for calculating the claim amount for claims not related to trafficking and states as a State agency, you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment and for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

7 C.F.R. § 273.18(c)(1)(ii) provides the actual steps for calculating a claim are you (A) determine the correct amount of benefits for each month that a household received an overpayment, (B) do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim unless the claim is an AE claim then apply the earned income deduction, (C) subtract the correct amount of benefits from the benefits actually

received. The answer is the amount of the overpayment unless the answer is zero or negative, then dispose of the claim referral, (D) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account in accordance with your own procedures. The difference is the amount of the claim unless you are not aware of any expunged benefits, then the amount of the overpayment calculated in paragraph (c)(1)(ii)(C) of this section is the amount of the claim.

The Department correctly determined that the SNAP benefits in the amount of \$1,644.00 for the period of [REDACTED] 2018 to [REDACTED] 2018, issued on [REDACTED] [REDACTED] 2024, for the Appellant and [REDACTED] were incorrectly paid as the Department created the benefit in error.

The Department correctly calculated \$1,644.00 as the overpayment amount the Appellant received in SNAP benefits (\$324.00 [REDACTED]/2018 + \$324.00 [REDACTED]/2018 + \$332.00 [REDACTED]/2018 + \$332.00 [REDACTED]/2018 + \$332.00 [REDACTED]/2018 = \$1,644.00).

DISCUSSION

The Department incorrectly authorized the Appellant's SNAP benefits for a period from [REDACTED] 2018, through [REDACTED] 2018. The Appellant had not applied for SNAP benefits during that time, nor had she been found eligible for SNAP benefits during that period. The Department incorrectly approved SNAP benefits for the Appellant and the non-related child residing with her, for a period when that child was not present in the home.

While the incorrect issuance of SNAP benefits to the Appellant was found to be an Agency Error, the Appellant was not entitled to benefits for that period; therefore, she remains responsible for repayment of the SNAP benefit overpayment.

DECISION

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


Amy MacDonough
Fair Hearing Officer

CC: Josephine Savastra, Operations Manager, DSS, Hartford Regional Office
Lindsey Collins, Operations Manager, DSS, Hartford Regional Office
Robert Stewart, Operations Manager, DSS, Hartford Regional Office
Wilfredo Medina, Fair Hearing Supervisor, DSS, Hartford Regional Office
Claudene Reid, Fair Hearing Liaison

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.