

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

██████████ 2024
Signature confirmation

Case: ██████████
Client: ██████████
Request: 238802

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2024, the Department of Social Services (the “Department”) denied ██████████ (the “Appellant”) request for replacement Supplemental Nutrition Assistance Program (“SNAP”) benefits.

On ██████████, 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s postmarked ██████████ 2024 hearing request.

On ██████████, 2024, the OLCRAH scheduled an administrative hearing for ██████████, 2024.

On ██████████, 2024, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing by video- and telephone-conferencing. The following individuals participated:

██████████, Appellant
Claudene Reid, Department Representative
██████████, ██████████, Interpreter
Eva Tar, Hearing Officer

The hearing record closed ██████████ 2024.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined that the Appellant was ineligible for replacement SNAP benefits.

FINDINGS OF FACT

1. The Appellant is a SNAP recipient. (Exhibit 2)
2. On [REDACTED], 2024, the Department deposited \$291.00 in SNAP benefits to the Appellant's SNAP account. (Exhibit 2)
3. On [REDACTED] 2024, \$509.99 was removed from the Appellant's SNAP account at [REDACTED] locations: \$175.44 (6:00:34 a.m.), \$185.22 (6:00:35); \$75.22 (6:00:56); and \$74.11 (6:01:06). (Exhibits 2 and 5)
4. On the afternoon of [REDACTED] 2024, the Appellant notified the Department that \$509.99 in SNAP benefits had been stolen from her EBT card. (Appellant Testimony) (Exhibit 5)
5. At all times, the Appellant retained her EBT card. (Appellant Testimony)
6. To replace SNAP benefits stolen through skimming, cloning, or similar fraudulent methods, SNAP recipients must report the theft to the Department within 30 days from the date of discovery. (Exhibit 1)
7. To replace SNAP benefits stolen through skimming, cloning, or similar fraudulent methods, SNAP recipients must submit a completed W-3037: *Request for Replacement of Stolen SNAP Benefits* within 10 calendar days of the date the form was sent by the Department. (Exhibit 1)
8. On [REDACTED] 2024, [REDACTED] 2024, and [REDACTED] 2024, Department employees advised the Appellant to allow time for processing of the SNAP replacement benefits. One employee advised that her SNAP benefits would be replaced within 48 hours; another advised the Appellant that the Department could take up to 30 days for processing and recommended that the Appellant check her SNAP account before calling. (Exhibit 5)
9. From [REDACTED] 2024 through [REDACTED], 2024, the Department failed to mail the Appellant a W-3037S-*Solicitud de Reemplazo de Beneficios de SNAP Robados* to complete. (Exhibit 5)
10. On [REDACTED], 2024, a Department employee issued a W-3037S to the Appellant. (Exhibit 5)
11. On or before [REDACTED], 2024, the Department had received the Appellant's completed W-3037S. (Exhibit 5)
12. On [REDACTED] 2024, the Department denied the Appellant's request for replacement benefits. (Exhibits 4 and 5)
13. 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..." On [REDACTED] 2024, the OLCRAH received the Appellant's [REDACTED], 2024 postmarked hearing request. This hearing decision would have become due by no later than [REDACTED] 2024. This decision is timely.

CONCLUSIONS OF LAW

1. The Department of Social Services is the designated state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008. Conn. Gen. Stat. § 17b-2.

The Department administers the SNAP in Connecticut.

2. Title 7, Code of Federal Regulations (“C.F.R.”) Section 274.1 (b)(1) provides: “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.”

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

3. “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)

The Department correctly documented the removal of \$509.99 from the Appellant’s SNAP account.

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

“The State agency shall document in the household’s case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household statement required in paragraph (a)(4) of this section.” 7 C.F.R. § 274.6 (a)(7)(i).

The Department correctly documented the Appellant’s ██████████ 2024 request for replacement SNAP benefits.

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 Connecticut State Plan for the Replacement of Stolen EBT Benefits submitted to FNS on February 27, 2023 cites as its authority the Consolidated Appropriations Act, 2023 and is the operative plan for replacing SNAP benefits stolen by skimming, card cloning, and other similar fraudulent methods.

6. “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.” 7 C.F.R. § 274.1 (a).

“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).

As the \$509.99 of the Appellant’s SNAP benefits was redeemed at a [REDACTED] store(s)’ host computer or Point of Sale device by an unauthorized, unknown individual, the incident is a system error arising from an auditable, out-of-balance settlement condition.

The Department has the authority under 7 C.F.R. § 274.2 (g)(2) to adjust the Appellant’s SNAP account regarding the removal of \$509.99 by an unauthorized, unknown individual.

7. The Connecticut State Plan for the Replacement of Stolen EBT Benefits, 2023 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....”

The Appellant’s [REDACTED] 2024 report of the \$509.99 theft was timely, as the Appellant completed the oral report several hours following the theft; the Appellant’s [REDACTED] 2024 report was not filed in excess of 30 days from the date of discovery.

The Appellant timely filed a completed W-3037S, as the form was received by the Department within 10 days of the Department’s [REDACTED] 2024 issuance of the form to the Appellant, as per the W-3037S’ instructions.

The Department in error determined that the Appellant was ineligible for replacement SNAP benefits.

DISCUSSION

There are two deadlines for replacing SNAP benefits stolen through skimming or cloning: 1. SNAP recipients have 30 days from the date of discovery to report to the Department that the benefits were stolen; and 2. SNAP recipients must submit a completed W-3037: *Request for Replacement of Stolen SNAP Benefits* within 10 calendar days from the date the Department sends them the form.

On the afternoon of [REDACTED] 2024, the Appellant reported that \$509.99 in SNAP benefits had been stolen from her SNAP account. The Department’s exhibits support the premise that the

SNAP benefits were removed from the Appellant's SNAP account that morning by skimming or cloning, as the multiple large-dollar transactions occurred within seconds in another state.

The Department did not mail the Appellant a W-3027S form to complete until [REDACTED], 2024, approximately six weeks from the date of the Appellant's initial report of the theft. The Department received the Appellant's completed W-3037S on or before [REDACTED], 2024, the date the Department forwarded the completed W-3037S form to scanning.

The Appellant both reported the theft timely and submitted the completed W-3037S timely. The Department erred when it denied the Appellant's request for replacement SNAP benefits.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will grant the Appellant \$509.99 in SNAP benefits to replace benefits lost through skimming or cloning.
2. Within 14 calendar days of the date of this Decision, or [REDACTED] 2024, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Claudene Reid, DSS-Hartford
Kathleen George, DSS-Hartford
Wilfredo Medina, DSS-Hartford
Josephine Savastra, DSS-Hartford
Lindsey Collins, DSS-Hartford
Robert Stewart, 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.