

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

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

Case # ██████████
Client ID # ██████████
Request # 242691

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2024, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her request for replacement of \$756.47 in stolen Supplemental Nutritional Assistance Program (“SNAP”) benefits.

On ██████████, 2024, the Appellant requested an administrative hearing to contest the Department’s decision to deny replacing the SNAP benefits.

On ██████████ 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2024.

On ██████████, 2024, the Appellant did not show for the scheduled hearing.

On ██████████ 2024, the Appellant requested to reschedule the hearing.

On ██████████ 2024, OLCRAH issued a notice rescheduling the 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, OLCRAH held an administrative hearing by phone. The following individuals participated in the hearing:

██████████, Appellant
Kirsten Evans, Department's Representative
Kristin Haggan, Hearing Officer

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 whose household receives a monthly SNAP benefit of \$708.00. (Hearing Record, Exhibit 2: SNAP Benefit Issuance)
2. On ██████ 2024, the following transactions were conducted with the Appellant's SNAP EBT account. (Exhibit 3: Recipient Transaction History)

| Date | Time | Amount |
|--------|----------|----------|
| ███/24 | 10:00 PM | \$455.23 |
| ███/24 | 10:00 PM | \$301.24 |
| Total | | \$756.47 |

3. The Appellant did not initiate the above transactions. (Appellant's Testimony, Findings of Fact # 2)
4. The above transactions were conducted in ██████████. (Department's Testimony, Findings of Fact # 2)
5. The Department determined that the SNAP EBT transactions that took place on ██████ 2024, for \$455.23 and \$301.24 were fraudulent. (Department's Testimony, Exhibit 3)
6. On ██████, 2024, the Appellant conducted a balance inquiry of her SNAP benefits and found that she had a \$0 balance. (Exhibit 3: Recipient Transaction History, Appellant's Testimony)
7. On ██████ 2024, the Appellant called the Department's Benefit Center to report her stolen SNAP benefits. The Department provided the Appellant with her options for completing the Request for Replacement of Stolen Benefits Form, and the Appellant chose to complete the online request form. (Exhibit 5: Department Case Notes)
8. On ██████ 2024, the Appellant changed her EBT card PIN. (Exhibit 3)
9. On ██████ 2024, the Appellant sent the Department an email to two email addresses: ClientFraud.DSS@ct.gov and providerfraud.dss@ct.gov. The Appellant's email stated that she was a victim of fraud and that she had recently

called 1-800-842-2155 and was not advised of which form to fill out, whether she should fill out the “client” or “provider/vendor fraud” form. The Appellant explained in her email that she filled out the “provider/vendor fraud” form due to the nature of her stolen SNAP benefits. The Appellant requested that the Department advise as to how she should move forward with retrieving her food stamps, and she provided her contact information. (Exhibit A: Appellant’s Email Correspondence)

10. On [REDACTED], 2024, the Client Fraud unit responded to the Appellant’s email stating “We have been made aware of the issue but this is going to have to go through eligibility so you will have to contact the benefit center at 855-626-6632. There is also a form to fill out that they can provide you with.” (Exhibit A)
11. On [REDACTED] 2024, the Appellant called the Department’s Benefit Center and used Virtual Hold Technology (“VHT”). The Department scheduled for a call back to be made to the Appellant on [REDACTED]/24 at 3:15 PM. (Exhibit 5: Impact Case Notes)
12. On [REDACTED] 2024, the Appellant called the Department’s Benefit Center to check on the status of the replacement SNAP benefits. The worker informed the Appellant that it takes 30 days for the replacement of stolen SNAP benefits. (Exhibit 5)
13. On [REDACTED] 2024, the Appellant changed her EBT card PIN. (Appellant’s Testimony, Department’s Testimony, Exhibit 3)
14. On [REDACTED] [REDACTED] 2024, the Appellant called the Department’s Benefit Center regarding the stolen SNAP benefits and the worker told her to call back in a week. (Exhibit 5)
15. On [REDACTED] 2024, the Appellant called the Department’s Benefit Center, and the worker told her that the Department would update her with a fraud report via mail. (Exhibit 5)
16. On [REDACTED] 2024, the Appellant called the Department’s Benefit Center. The Department’s case note states “Provided information regarding SNAP Fraud Investigation Status. No further follow-up required”. (Exhibit 5)
17. On [REDACTED] [REDACTED], 2024, the Appellant called the Department’s Benefit Center regarding the stolen SNAP benefit and used VHT. The Department scheduled for a call back to made to the Appellant on [REDACTED]/24 at 8:00 AM. There is no case note indicating that the Department called the Appellant back at the scheduled time. (Exhibit 5)
18. On [REDACTED] 2024, the Appellant called the Department’s Benefit Center to check the status of her stolen SNAP benefits. The Department advised the Appellant

that once the investigation was complete, she would receive a mailing that included the details. The Department's case note states, "no follow up required". (Exhibit 5)

19. On [REDACTED] 2024, the Appellant called the benefit center and reported again the loss of her SNAP benefits due to fraud. The Department informed her that her case was still pending investigation and scheduled a return phone call to her for [REDACTED]/24 at 2:30 PM. (Exhibit 5)

20. On [REDACTED], 2024, the Appellant called the Department's Benefit Center and requested that the Department check the status of her stolen SNAP benefit replacement that she reported in [REDACTED] 2024. The Appellant informed the Department that she had filled out the online form and then spoke with a worker on [REDACTED] 24 and that the worker had informed her the form was in the system and that she should wait for the investigation to conclude. The Department conducted a document search and found that no form was received from the Appellant regarding the replacement of her stolen SNAP benefits. The Department mailed the Appellant a paper W3037 form to complete. (Exhibit 5)

21. On [REDACTED] 2024, the Department received a completed form W3037 from the Appellant reporting again the SNAP benefits of \$756.47 that were stolen from her on [REDACTED] 2024. The Department denied the Appellant's request for stolen benefits due to the claim not being timely stating that she "failed to report the theft to the Department within 30 days of the date she discovered that her SNAP benefits had been stolen". (Exhibit 5)

22. On [REDACTED], 2024, the Department issued the Appellant a W3036N Notice of Action. The W3036N form indicates the following reasons that the Department may deny the replacement of stolen SNAP benefits:

- 1) You have already received replacement benefits two times this federal fiscal year on ___ and ___.
- 2) You did not report your stolen benefits to the Department within 30 days of discovering the theft.
- 3) We did not receive your signed "Request for Replacement of Stolen SNAP Benefits" form by the deadline date of ___.
- 4) We found that the SNAP benefits were not stolen due to card skimming, card cloning, and other similar fraudulent methods.
- 5) Other.

The Department checked off the box indicating that the Appellant is not eligible for replacement SNAP benefits because she "did not report the stolen benefits to

the Department within 30 days of discovering the theft”. (Exhibit 4: Notice of Action W3036N)

23. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations (“C.F.R.”) § 273.15 which states that the Department must reach a decision and notify the household within 60 days of receipt of a request for a hearing. The Appellant requested an administrative hearing on [REDACTED], 2024. The hearing was originally scheduled for [REDACTED] 2024. However, at the request of the Appellant, the hearing was rescheduled and held on [REDACTED] [REDACTED] 2024. The rescheduling of the hearing resulted in a [REDACTED]-day delay; therefore, this decision is due no later than [REDACTED] 2024. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 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 Appellant’s SNAP benefit replacement request and determine whether the Appellant meets the program’s eligibility requirements for replacement benefits.

2. Title 7 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.

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 issued by EBT.

3. 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.

4. 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 the 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.

5. 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.

Submission of Claims – Timeliness

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.

Submission of Claims – Procedure

Households must report the loss within 30 calendar days of discovering the theft. They can do this by phone at 1-855-626-6632, in writing to DSS, or in-person at one of our field offices. Once a household reports a loss of benefits to DSS, the agency will immediately, but no later than five (5) business days, give/send/direct online to the household the *Request for Replacement of Stolen SNAP Benefits* form. Households must then complete the *Request for Replacement of Stolen SNAP Benefits* Form and submit it to DSS within ten (10) calendar days after the form is sent. Households may also submit the *Request for Replacement of Stolen SNAP Benefits* form as their initial report to DSS and do not need to make a separate report first. This form attests to the validity of the claim and amount stolen, as well as informs households of program rules, timelines, and information about providing a false statement to DSS as well as collect's the head of household's signature.

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 the 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.
- 5) Benefits replacement claims can only be made for thefts that occurred between 10/1/2022 through 9/30/2024 (per POGA communication dated 9/25/24, the authority for the Department to issue replacements for stolen SNAP benefits is expected to be extended beyond September 30, 2024. The House of Representatives introduced a Continuing Resolution to avert a government shutdown. This resolution includes an extension of the federal authority to replace stolen benefits through December 20th, 2024. The SNAP Team will send out an additional POGA Communication with more information once a decision has been made).

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.

On [REDACTED] 2024, the Appellant reported to the Department that her SNAP benefits were stolen three days prior on [REDACTED] 2024.

The Appellant correctly reported that her SNAP benefits were stolen within 30 days of discovering the theft. The Appellant did not submit the Request for Replacement of Stolen SNAP Benefits form timely.

On [REDACTED] 2024, the Department denied the Appellant's request to replace her stolen SNAP benefits for the incorrect reason, stating on the Notice of Action that she "did not report the stolen SNAP benefits to the Department within 30 days of discovering the theft".

DISCUSSION

The Appellant reported the stolen SNAP benefits by phone call to the Department on [REDACTED] 2024, just three days after her benefits were stolen on [REDACTED] 2024, therefore, the Department's Notice of Action stating that the Appellant was being denied because she "did not report the stolen SNAP benefits to the Department within 30 days of discovering the theft", is incorrect.

During her phone call to the Department on [REDACTED] 2024, the Appellant informed the Department that she would submit the online request form for the reimbursement of her stolen SNAP benefits. However, when the Appellant attempted to locate and complete the online form, she was unsure of which form to use, and she submitted the incorrect form. The Appellant then contacted the Department's fraud unit via email asking for guidance and received a response referring her to contact the Benefit Center for help with her issue.

The Appellant contacted the Benefit Center diligently on [REDACTED]/24, [REDACTED]/24, [REDACTED]/24, [REDACTED]/24, [REDACTED]/24, [REDACTED]/24, and [REDACTED] 24. The case notes regarding these phone calls show no indication that the Department checked the system to see if the Appellant's request form had been received, or provided any guidance as to how she could locate and complete the correct online form, or that it offered to send the Appellant a paper request form to be completed. The case notes indicate that the Department directed the Appellant to either call back at a later date, wait for the investigation to be completed, or wait for the Department to call her back.

The Appellant contacted the Benefit Center again on [REDACTED]/24 and spoke with a worker who checked the system and found that the appropriate request form was never received. The worker provided guidance regarding the Appellant's options for resubmitting the form.

On [REDACTED] 2024, the Appellant's completed Request for Replacement of Stolen SNAP Benefits was received by the Department.

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 [REDACTED] 2024, Request for Replacement of Stolen SNAP Benefits form as received timely.
3. Compliance with this order is due to the undersigned no later than [REDACTED] [REDACTED] 2024.

Kristin Haggan

Kristin Haggan
Hearing Officer

Pc: Kirsten Evans, Hearing Liaison, New Haven DSS
Randalynn Muzzio, SSOM, New Haven DSS
Ralph Filek, New Haven DSS
StolenSNAP.FH@ct.gov

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.