

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

██████████ 2019
Signature Confirmation

Client ID # ██████████
Request # 149262 SNAP

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") discontinued ██████████
██████████ (the "Appellant") benefits under the Supplemental Nutrition Assistance
Program ("SNAP") effective ██████████ 2019.

On ██████████, 2019, the Appellant requested an administrative hearing to
contest the Department's decision to discontinue such benefits.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and
Administrative Hearings ("OLCRAH") issued a notice scheduling the
administrative hearing for ██████████ 2019.

On ██████████ 2019, 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:

██████████, Appellant
Michael Ober, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's benefits under the SNAP effective [REDACTED] 2019 was correct.

FINDINGS OF FACT

1. In [REDACTED] 2019, the Appellant, her daughter and her son moved from the state of [REDACTED] to the state of [REDACTED] (Exhibit 1: W-1E Application for Benefits, Exhibit 2: Case Notes, Appellant's Testimony)
2. On [REDACTED] 2019, the Appellant age [REDACTED] submitted an application for food stamp benefits under the SNAP for herself, her son age [REDACTED], and her daughter age [REDACTED]. On the application, the Appellant reported no source of income for herself or her children, no assets, and no shelter expenses. (Exhibit 1: W-1E Application for Benefits, Appellant's Testimony and Department Representative's Testimony)
3. On [REDACTED] 2019, the Appellant submitted an application for Temporary Family Assistance ("TFA") for herself and her daughter. The Appellant did not request TFA benefits for her son. (Exhibit 1: W-1E Application for Benefits, Exhibit 2: Case Notes, Appellant's Testimony and Department Representative's Testimony)
4. On [REDACTED] 2019, the Appellant completed an application interview with the Department at the same time she filed her application for SNAP and TFA benefits. During the interview, the Appellant reported receipt of direct child support income, receipt of out of state benefits under the SNAP, rental expenses which exceed her income, and financial help from her son's father. (Exhibit 2: Case Notes and Appellant's Testimony)
5. The Department determined the Appellant eligible for expedited benefits under the SNAP and issued SNAP benefits for [REDACTED] 2019 and [REDACTED] 2019. (Hearing Record)
6. The Department determined ongoing SNAP benefits remain pending until the Appellant provided the following information to the Department: proof [REDACTED] SNAP benefits were discontinued, proof of direct child support income received, and proof of household composition. (Exhibit 2: Case Notes)
7. On [REDACTED] 2019, the Department completed a referral to the Department's Investigation Unit because the Department suspected additional unreported household members reside in the home and the

- Appellant's expenses exceed her income. (Exhibit 2: Case Notes and Department Representative's Testimony)
8. On [REDACTED] 2019, the Department contacted the state of [REDACTED] on behalf of the Appellant requesting proof of termination of SNAP benefits. (Exhibit 2: Case Notes)
 9. On [REDACTED], 2019, a Department Representative from the Investigations Unit met with the Appellant at her home address. The Appellant did not expect a visit to her home from the Department because the Department failed to disclose a home visit requirement at the application interview, failed to disclose a home visit requirement as a condition of eligibility, and failed to issue a notice scheduling a home visit to the Appellant. (Hearing Record)
 10. On [REDACTED] 2019, the Appellant did not allow the Department Representative to enter her home. (Appellant's Testimony)
 11. On [REDACTED] 2019, the Appellant agreed to sign a statement titled "Request to withdraw application/close case with the Department of Social Services" prepared by the Department. The prepared statement dated [REDACTED] 2019 says, "I [the Appellant] wish to close my case/withdraw my Application for the following programs: I understand that I may reapply at any time." The statement is void of any programs listed. (Appellant's Testimony, Exhibit 2: Case Notes and Exhibit 3: Statement)
 12. On [REDACTED] 2019, the Department denied the Appellant's application for food stamp assistance under the SNAP for the reason you have withdrawn your application for benefits. (Department Representative's Testimony)
 13. On [REDACTED], 2019, the Department issued the Appellant a notice of action. The notice stated the Department approved benefits under the SNAP in the amount of \$252.00 for [REDACTED] 2019 and \$509.00 for [REDACTED] 2019. The notice did not contain information regarding the Department's decision to deny the Appellant's application for benefits under the SNAP beginning [REDACTED] 2019 or any information instructing the Appellant to reapply. (Exhibit 5: Notice of Action)
 14. The Appellant seeks to reopen her application for benefits under the SNAP. At the time of the unscheduled home visit, the Appellant signed the prepared statement because she chose not to allow the Department Representative into her home. (Appellant's Testimony)
 15. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within 90 days of the

request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. Therefore, this decision is due not later than [REDACTED] 2020.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statute (“Conn. Gen. Stat.”) provides that “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. “The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat, § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))
3. Title 7 Section 273.2(b)(3) of the Code of Federal Regulations (“C.F.R.”) provides as follows:

If a State agency has a procedure that allows applicants to apply for SNAP and another program at the same time, the State agency shall notify applicants that they may file a joint application for more than one program or they may file a separate application for SNAP benefits independent of their application for benefits from any other program. All SNAP applications, regardless of whether they are joint applications or separate applications, must be processed for SNAP purposes in accordance with SNAP procedural, timeliness, notice, and fair hearing requirements. No household shall have its SNAP benefits denied solely on the basis that its application to participate in another program has been denied or its benefits under another program have been terminated without a separate determination by the State agency that the household failed to satisfy a SNAP eligibility requirement. Households that file a joint application for SNAP benefits and another program and are denied benefits for the other program shall not be required to resubmit the joint application or to file another application for SNAP benefits but shall have its SNAP eligibility determined based on the joint application in accordance with the SNAP processing time frames from the date the joint application was initially accepted by the State agency.

Section 1505.10(A)(2) of the Uniform Policy Manual (“UPM”) provides as follows: “The Department may utilize a single uniform application for multiple programs, or separate applications for individual programs.”

4. Federal regulation provides as follows:

The date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day. For online applications, the date of application is the date the application is submitted, or the next business day if it is submitted after business hours. For telephonic applications, the date of application is the date on which the household member provides verbal assent.

7 C.F.R. § 273.2(c)(1)(iv)

“For Food Stamp applications, except as noted below in 1510.10D.4, the date of application is considered to be the date that a signed application form is received by the appropriate District Office designated to serve the applicant’s geographic region of residence.” UPM § 1505.10(D)(3)(a)

5. The Department correctly determined the date of application under the SNAP as [REDACTED] 2019.
6. Federal regulation provides as follows:

State agencies shall verify the following information prior to certification for household initially applying: State agencies shall verify factors affecting the composition of a household, if questionable. Individuals who claim to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household to the satisfaction of the State agency. Individuals who claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness shall be responsible for proving a claim of separateness (at the State agency's request) in accordance with the provisions of §273.2(f)(1)(viii).

7 C.F.R. § 273.2(f)(1)(x)

Department policy provides as follows:

Verification is required when individuals request Food Stamps as a separate assistance unit from others in the household.

Factors which must be verified if they are the basis for separate unit status are:

1. Age, when questionable;
2. Pension benefits;
3. Disability benefits;
4. Disability.

UPM § 2099.05(B)

Department policy provides as follows:

This section describes which individuals or groups of individuals in each designated program are members of an assistance unit. Certain individuals who live together in the same household must be members of the same assistance unit. Others may qualify individually as an assistance unit.

Requirements regarding assistance unit composition vary considerably from program to program. Each program is therefore discussed separately in this section. For all programs, however, an individual must meet all of the program eligibility requirements in order to be included in an assistance unit.

UPM § 2000

7. Federal regulation provides as follows:

Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified. A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent.

7 C.F.R. § 273.1(b)(1)(ii)

Department policy provides as follows:

The assistance unit must include certain individuals who are in the home, if they are not specifically excluded or ineligible to participate in the Food Stamp program.

Those who are related as follows must be included in the assistance unit, except when the child or adult is a foster child or foster adult:

1. A child under age 18 under the parental control of a member of the assistance unit;
2. A spouse of a member of the assistance unit including any who presents himself or herself as a spouse;
3. Children ages 18 through 21 living with their parents.

UPM § 2020.10(A)

8. State statute provides as follows:

The Commissioner of Social Services shall develop a state-wide fraud early detection system. The purpose of such system shall be to identify, investigate and determine if an application for assistance under (1) programs administered by the department, including, but not limited to, (A) the temporary family assistance program, (B) the supplemental nutrition assistance program, (C) the child care subsidy program, or (D) the Medicaid program pursuant to Title XIX of the Social Security Act, and (2) the child care subsidy program administered by the Office of Early Childhood, pursuant to section 17b-749, is fraudulent prior to granting assistance. The Commissioner of Social Services shall consult with the Commissioner of Early Childhood regarding the development of such state-wide fraud early detection system for such child care subsidy program. The Commissioner of Social Services shall adopt regulations, in accordance with chapter 54, for the purpose of developing and implementing said system. The Commissioner of Social Services shall submit quarterly reports concerning savings realized through the implementation of the state-wide fraud early detection system to the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies.

Conn. Gen. Stat. § 17b-7a

9. Federal regulation provides as follows:

The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level. The State agency shall establish guidelines to be followed in determining what shall be considered questionable information. These guidelines shall not prescribe verification based on race, religion, ethnic background, or national origin. These guidelines shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision.

7 C.F.R. § 273.2(f)(2)(i)

“The assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555).” UPM § 1010.05(A)(1)

“The assistance unit must permit the Department to verify information independently whenever the unit is unable to provide the necessary information, whenever verification is required by law, or whenever the

Department determines that verification is necessary (Cross reference: 1540)." UPM § 1010.05(A)(2)

"Prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits." UPM § 1505.40(A)(1)

Department policy provides as follows:

A Fraud Early Detection (FRED) investigation is done on AABD, Medicaid and Food Stamps applications that meet an error prone profile. Conditions that would cause a case to meet this profile include, but are not limited to:

- a. A previous fraud overpayment;
- b. Children under the age of six;
- c. The household is suspected of living above its means;
- d. The case was denied or closed within three months;
- e. Application is inconsistent with prior case history;
- f. Questionable absent parent information;
- g. No income for two consecutive months;
- h. Questionable verification; living in Connecticut for less than three months;
- i. Household composition appears different than reported;
- j. Assets appear to be greater than reported.

UPM § 1505.40(A)(2)

10. Federal regulation provides as follows:

The State agency shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process. The notice shall also inform the household of the State agency's responsibility to assist the household in obtaining required verification provided the household is cooperating with the State agency as specified in (d)(1) of this section. The notice shall be written in clear and simple language and shall meet the bilingual requirements designated in §272.4(b) of this chapter. At a minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.

7 C.F.R. § 273.2(c)(5)

“The Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit’s rights and responsibilities.” UPM § 1015.10

11. Federal regulation provides as follows:

State agencies shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers that appear to be falsified.

7 C.F.R. § 273.2(c)(4)(i)

Federal regulation provides as follows:

Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, and the home visit is scheduled in advance with the household. Home visits are to be used on a case-by-case basis where the supplied documentation is insufficient. Simply because a household fits a profile of an error-prone household does not constitute lack of verification. State agencies shall assist households in obtaining sufficient verification in accordance with paragraph (c)(5) of this section.

7 C.F.R. §273.2(f)(4)(iii)

Department regulation provides as follows: Home visits are made to facilitate verification when:

1. The Department regards it as necessary to determine eligibility or calculate benefits; and
2. The unit agrees to being interviewed at home.

12. The Department incorrectly denied the Appellant's application for benefits under the SNAP because the Department failed to provide the Appellant with a notice that informed the Appellant of the verification requirements the household must meet to determine eligibility under the SNAP: proof of household composition, proof of direct child support income, and proof of termination of out of state benefits. Additionally, the Department failed to inform the Appellant of a home visit requirement, obtain her permission to be interviewed at home, and schedule such appointment.
13. Federal regulation provides as follows:

The household may voluntarily withdraw its application at any time prior to the determination of eligibility. The State agency shall document in the case file the reason for withdrawal, if any was stated by the household, and that contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time subsequent to a withdrawal.

7 C.F.R. § 273.2(c)(6)

"The Department may complete the eligibility determination at any time during the application process when: the applicant withdraws the application." UPM 1505.40(A)(4)(a)

14. The Department incorrectly denied the Appellant's application for SNAP for the reason you asked to have your application withdrawn because the prepared statement, signed by the Appellant on [REDACTED] 2019 at the time of the attempted home visit, fails to list any program for which the Appellant requested to withdraw her application for.
15. "The Department must send the assistance unit a notice regarding the Department's determination of the unit's initial eligibility, and subject to conditions described in Section 1570, adequate notice before taking action to change the unit's eligibility status or the amount of benefits." UPM § 1015.10(C)

"Assistance units are provided with a written notice of eligibility at the time assistance is granted, and upon completion of a redetermination." UPM § 1530.15(A)

Department policy provides as follows:

The notice of eligibility contains, at a minimum, the following information where appropriate to the particular assistance unit and assistance program:

1. Dates of assistance;

2. Explanation of benefits, including the amount of retroactive and on-going benefits;
3. Variations in benefit level based on anticipated changes at the time of certification;
4. Length of the FS certification period;
5. Notice of right to a fair hearing
6. Availability of legal services;
7. Agency telephone number and whenever possible the name of the person to contact;
8. For FS assistance units the need to reapply at the end of the certification period;
9. The next scheduled month of redetermination;
10. Other information as determined necessary by the Department.

UPM § 1530.15(B)

“Assistance units certified on an expedited basis with postponed verification are informed of the need to provide the verification to reapply.”

UPM § 1530.15(C)

“Except in situations described below, the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to: discontinue, terminate, suspend or reduce benefits.” UPM § 1570.10(A)(1)

“The Department mails an adequate notice no later than the date of the action if the action is based on any of the following circumstances: the unit no longer wishes to receive benefits.” UPM § 1570.10(B)(1)(a)

16. The notice of action issued on [REDACTED] 2019 fails to inform the Appellant of the need to provide verification and the need to reapply. The notice of action fails to inform the Appellant that the Department denied her application for ongoing SNAP benefits.

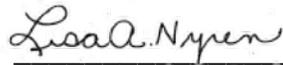
DECISION

The Appellant’s appeal is GRANTED.

ORDER

1. The Department must reopen the Appellant application for food stamp benefits under the SNAP effective [REDACTED] 2019 and continue to process eligibility under the SNAP.

2. The Department must issue a notice that informs the household of the verification requirements the household must meet in order for the Department to make an eligibility decision regarding the SNAP application.
3. If the Department determines a home visit is required, the Department must obtain the Appellant's permission and schedule the home visit in advance. Refer to Conclusion of Law # 11.
4. Compliance is due [REDACTED] 2020.



Lisa A. Nyren
Fair Hearing Officer

CC: Tyler Nardine, DSS RO # 40
Cheryl Stuart, DSS RO # 40
Micheal Ober, DSS RO #40

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, 55 Elm Street, 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.