

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

[REDACTED] 2020
Signature confirmation

Case: [REDACTED]
Client: [REDACTED]
Request: 148959

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2019, [REDACTED] (the "Appellant") telephoned a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") disputing the proposed reduction by the Department of Social Services (the "Department") of her Supplemental Nutrition Assistance Program ("SNAP") benefits from \$509.00 to \$199.00 for the [REDACTED] 2019 service month.

On [REDACTED] 2019, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for [REDACTED] 2019. The OLCRAH granted the Appellant's requests for postponements.

On [REDACTED] 2020, 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. The following individuals attended the proceedings:

[REDACTED], Appellant
[REDACTED], Appellant's minor child
Amy Macdonough, Department's representative
Eva Tar, Hearing Officer

The hearing record closed on [REDACTED] 2020.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined on [REDACTED] 2019 that the Appellant's household would be eligible for \$199.00 in SNAP benefits for the [REDACTED] 2019 service month.

FINDINGS OF FACT

1. The Appellant is ■ years old. (Appellant testimony)
2. The Appellant's two minor children, ages ■ and ■ years, live with the Appellant. (Appellant testimony)
3. The Appellant's ■-year-old has not attended daycare since ■ or ■ 2019. (Appellant testimony)
4. The Appellant owes money to the daycare. (Appellant testimony)
5. From ■, 2019 through ■ 2020, the State of Connecticut did not collect child support from the Appellant. (Department Exhibit F)
6. In ■ 2019, the Appellant grossed \$1,647.80 in wages from a single employer; she receives her wages biweekly. (Department Exhibit C)
7. The Appellant receives \$84.00 per week in child support for her ■-year-old. (Appellant testimony)(Department Exhibit E)
8. The Appellant's rent equals \$1,050.00 per month, with heat and hot water included. (Appellant testimony)
9. On ■ 2019, the Department issued two benefits to the Appellant's SNAP account: \$509.00 and \$20.01. (Department Exhibit F)
10. On ■ 2019, the Department issued the Appellant's household \$509.00 in SNAP benefits. (Department Exhibits E and F)
11. On ■ 2019, the Department notified the Appellant that her household was eligible to receive \$199.00 in SNAP benefits, beginning ■ 2019. (Department Exhibit E)
12. When it calculated the SNAP benefits for the Appellant's household for ■ 2019 as \$199.00, the Department had credited the Appellant with paying \$265.00 per month for child care. (Department representative testimony)(Department Exhibit E)
13. On ■ 2019, the Appellant telephoned a request for an administrative hearing as to the reduction of her SNAP benefits from \$509.00 to \$199.00. (Hearing request)
14. Subsequent to the Appellant's ■ 2019 hearing request, the Department issued a *Notification of Overpayment and Recoupment*. (Department Exhibit F)
15. On ■ 2019, the Department issued the Appellant's household \$180.00 in SNAP benefits, having reduced the \$199.00 benefit by \$19.00 as part of recovery for an overpayment. (Department Exhibits D and F)

16. 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....” “The household may request and is entitled to receive a postponement of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. For example, if a State level hearing is postponed by the household for 10 days, notification of the hearing decision will be required within 70 days from the date of the request for a hearing.” 7 C.F.R. § 273.15 (c) (4).

The OLCRAH received the Appellant’s hearing request on [REDACTED] 2019, which would have required the hearing to be held and a decision issued by [REDACTED] 2020.

However, the OLCRAH granted the Appellant several postponements, for a total of 62 days in delay to the initially scheduled hearing date of [REDACTED] 2019. As federal regulations at 7 C.F.R. § 273.15 (c)(4) provides a maximum of 30 days to postpone an administrative hearing, this final decision would be due by [REDACTED] 2020, i.e., the 30th day following [REDACTED] 2020. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

“The commissioner shall make periodic investigations to determine eligibility and may, at any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the ... supplemental nutrition assistance program....” Conn. Gen. Stat. § 17b-80 (a).

The Department has the authority, at any time, to modify the Appellant’s monthly benefit when it is necessary to carry out the provisions of the SNAP.

2. Title 7, Section 273.1 (b)(1) of the Code of Federal Regulations (“C.F.R.”) provides:
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. (i) Spouses; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

7 C.F.R. § 273.1 (b)(1).

The Appellant’s household is a SNAP household of three.

3. "Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section." 7 C.F.R. § 273.9 (b).

"Earned income shall include: (i) All wages and salaries of an employee." 7 C.F.R. § 273.9 (b)(1)(i).

The Appellant's gross wages are counted income for the SNAP.

4. Unearned income includes, but is not limited to support or alimony payments made directly to the household from nonhousehold members. 7 C.F.R. § 273.9 (b)(2)(iii).

The child support the Appellant receives is counted income for the SNAP.

5. "Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15...." 7 C.F.R. § 273.10 (c)(2)(i).

The Appellant's anticipated monthly wages for the [REDACTED] 2019 service month equals \$1,771.38. [\$1,647.80 (gross wages in [REDACTED]), divided by two pay periods, multiplied by 2.15 pay periods per month]

The Appellant's anticipated monthly child support that she receives equals \$361.20. [\$84.00 (gross weekly child support) multiplied by 4.3 weeks per month]

6. Title 7, Section § 273.9 (d)(1)(i) of the Code of Federal Regulations provides for a standard deduction for the 48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands.

The SNAP Standard Deduction is \$167.00 per month for a household of three, effective [REDACTED] 2019.

The Appellant's household is eligible for the \$167.00 per month standard deduction.

7. Title 7, Section 273.9 (d) of the Code of Federal Regulations identifies the following allowable income deductions with respect to household expenses: (1) standard deduction; (2) earned income deduction; (3) excess medical deduction; (4) dependent care; (5) optional child support deduction; and (6) shelter costs.

"Earned income deduction. Twenty percent of gross earned income as defined in paragraph (b)(1) of this section. Earnings excluded in paragraph (c) of this section shall not be included in gross earned income for purposes of computing the earned income deduction...." 7 C.F.R. § 273.9 (d)(2).

The Appellant's household is eligible to receive the 20 percent earned income deduction from the Appellant's gross wages.

8. *“Excess medical deduction.* That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in §271.2.” 7 C.F.R. § 273.9 (d)(3).

The Appellant’s household is not eligible to receive the excess medical deduction as it contains no elderly or disabled members.

9. “Payments for dependent care when necessary for a household member to search for, accept or continue employment, comply with the employment and training requirements as specified under §273.7(e), or attend training or pursue education that is preparatory to employment, except as provided in §273.10(d)(1)(i)....” 7 C.F.R. § 273.9 (d)(4).

“Except as provided in paragraph (d)(3) of this section a deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. ... *Amounts carried forward from past billing periods are not deductible*, even if included with the most recent billing and actually paid by the household....” 7 C.F.R. § 273.10 (d)(2) (emphasis added).

The Appellant’s household is not eligible to continue to receive \$265.00 per month as a child care deduction, as the Appellant’s [REDACTED]-year-old had not attended daycare since on or after [REDACTED] 2019.

10. *“Optional child support deduction.* At its option, the State agency may provide a deduction, ... , for legally obligated child support payments *paid* by a household member to or for a nonhousehold member, including payments made to a third party on behalf of the nonhousehold member (vendor payments) and amounts *paid* toward child support arrearages.....” 7 C.F.R. § 273.9 (d)(5) (emphasis added).

The Appellant’s household is not eligible to receive a child support deduction, as the Appellant has not paid child support since [REDACTED] 2019.

11. **In [REDACTED] 2019, the Appellant’s adjusted monthly gross income equaled \$1,611.31. [\$1,771.38 (anticipated gross wages) minus \$354.27 (20% earned income deduction) plus \$361.20 (anticipated child support received by the household) minus \$167.00 (standard deduction)]**

12. Title 7, Section 273.10 (e) of the Code of Federal Regulations provides for calculating net income and benefit levels. Subsection (e)(1)(i) provides:

To determine a household's net monthly income, the State agency shall:

- (A) Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income...
- (B) Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions...
- (C) Subtract the standard deduction.
- (D) ...

- (E) ...
- (F) ...
- (G) ...

- (H) Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.
- (I) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

7 C.F.R. § 273.10 (e)(1)(i).

“Excess shelter deduction. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) through (d)(5) of this section have been allowed. If the household does not contain an elderly or disabled member, as defined in §271.2 of this chapter, the shelter deduction cannot exceed the maximum shelter deduction limit established for the area....” 7 C.F.R. § 273.9 (d)(6)(ii).

The cap on shelter hardship for SNAP households containing no elderly or disabled members is \$569.00.

For the purposes of the SNAP, the Appellant’s household is subject to the cap on shelter hardship, as it contains no elderly or disabled individuals.

- 13. “With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection....” 7 C.F.R. § 273.9 (d)(6)(iii)(A).

In Connecticut, a household that receives a LIHEAP (\$20.01) issuance is eligible for the SUA. *Field Operations Communication, 1/2/2019*

Effective [REDACTED] 2019, the SUA equaled \$736.00 per month.

It is reasonable to conclude that the Department’s [REDACTED] 2019 issuance of \$20.01 to the Appellant’s SNAP account—a separate entry from the household’s \$509.00 [REDACTED] 2019 SNAP benefit—is a LIHEAP grant.

The Appellant's receipt of a \$20.01 LIHEAP grant on [REDACTED] 2019 qualifies her household to receive the SUA.

For the purposes of the SNAP, the Appellant's monthly shelter costs are \$1,786.00 in [REDACTED] 2019. [\$1,050.00 (rent) plus \$736.00 (SUA)]

For the purposes of the SNAP, the Appellant's shelter hardship equals \$569.00 in [REDACTED] 2019. [\$1,786.00 (monthly shelter costs of rent + SUA) minus \$805.65 (50% of adjusted gross income), capped at \$569.00]

- 14. "In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with paragraph (e)(1)(i)(A) of this section, compared to the gross monthly income standards defined in §273.9(a)(1) for the appropriate household size to determine eligibility for the month." 7 C.F. R. § 273.10 (e)(2)(B).

Title 7, Section 273.10 (e)(4) of the Code of Federal Regulations provides for the Thrifty Food Plan and the maximum SNAP allotments.

The Thrifty Food Plan for a qualified assistance unit of three in Connecticut with no applied income equals \$509.00 per month, effective [REDACTED] 2019.

- 15. Title 7, Section 273.10 (e)(2)(ii)(A) of the Code of Federal Regulations provides:
 Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways:
 - (1) The State agency shall round the 30 percent of net income up to the nearest higher dollar; or
 - (2) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting the 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

7 C.F.R. § 273.10 (e)(2)(ii)(A).

- 16. The Appellant's SNAP benefits are computed as follows:

<u>SNAP BENEFIT CALCULATION</u>	
[REDACTED] 2019	
<u>INCOME</u>	
Earned Income	\$1,771.38
Less 20% earned income disregard	- 354.27
Plus Unearned Income	+ 361.20

Less standard deduction	- 167.00
Adjusted gross income -	\$1,611.31
<u>SHELTER COSTS</u>	
Rent	+1,050.00
SUA	+ 736.00
Total shelter costs -	\$1,786.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	1,786.00
Less 50% of adjusted gross income	- <u>805.65</u>
Total shelter hardship – <i>(capped at \$569.00 for households with no elderly or disabled members)</i>	= \$569.00
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1,611.31
Less shelter hardship	- <u>569.00</u>
Net Adjusted Income (NAI)	\$1,042.31
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for three	509.00
Less 30% of NAI <i>(rounded to nearest dollar)</i>	- <u>313.00</u>
<u>SNAP BENEFITS:</u>	= \$196.00

The Appellant’s household was eligible to receive \$196.00 in SNAP benefits for the [REDACTED] 2019 service month.

The Department incorrectly determined on [REDACTED] 2019 that the Appellant’s household would be eligible for \$199.00 in SNAP benefits for the [REDACTED] 2019 service month.

DISCUSSION

The issue of this administrative hearing is the Department’s proposed reduction of the Appellant’s SNAP benefit from \$509.00 to \$199.00, effective [REDACTED] 2019, as memorialized in the Department’s [REDACTED] 2019 *Notice of Action*.

The Department miscalculated the SNAP benefits for the Appellant’s household for [REDACTED] 2019, as it in error allowed the Appellant a \$265.00 per month out-of-pocket child care deduction from her income. The Appellant testified that her child stopped attending daycare in [REDACTED] 2019 or [REDACTED] 2019.

The hearing officer recalculated the [REDACTED] 2019 SNAP benefits taking notice of the evidence and testimony submitted for the hearing record as well as federal regulations governing the SNAP. The Appellant's household was eligible for \$196.00 in SNAP benefits for [REDACTED] 2019.

However, the Appellant's household received \$180.00—and not the \$199.00 identified in the Department's [REDACTED] 2019 *Notice of Action*—in SNAP benefits for the [REDACTED] 2019 service month.

The Department had administratively reduced the Appellant's SNAP benefits by \$19.00 on [REDACTED] [REDACTED] 2019 to partially offset an alleged overpayment. The Department's representative was unable to testify with accuracy as to the specifics of an overpayment that the Department had calculated *subsequent* to the Appellant's [REDACTED] 2019 hearing request.

At the [REDACTED] 2020 administrative hearing, the Appellant filed a hearing request to address the SNAP overpayment. Federal regulations governing the SNAP permit the scheduling of an administrative hearing if the hearing request is filed within 90 days of the agency's notice of adverse action. It is expected that the OLCRAH will schedule a SNAP hearing to address the validity of this overpayment as well as its recovery.

DECISION

The Appellant's appeal is GRANTED in that Department incorrectly determined that the Appellant's household was eligible for \$199.00 in SNAP benefits in [REDACTED] 2019. The Appellant was eligible to receive only \$196.00 in SNAP benefits for that service month.

However, the Appellant's household only received \$180.00 in SNAP benefits in [REDACTED] 2019 as the Department had reduced her SNAP benefit by \$19.00 per month as partial recovery on an overpayment created subsequent to the Appellant's [REDACTED] 2019 hearing request.

As the validity of the overpayment is expected to be addressed at a different hearing, no action is required at this time.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Amy Macdonough, DSS-Middletown
Brian Sexton, DSS-Middletown

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.