

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

[REDACTED], 2019
Signature Confirmation

Case # [REDACTED]
Request # 148784

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2019, the Department of Social Services (the "Department") issued a Notice of Action to [REDACTED] (the "Appellant") advising him that his Supplemental Nutrition Assistance Program ("SNAP") benefits would be \$94.00 per month, effective [REDACTED] 2019.

On [REDACTED] 2019, the Appellant requested an administrative hearing because he disagrees with the amount of his SNAP benefits.

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

On [REDACTED], 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:

[REDACTED], the Appellant
[REDACTED], III Interpreter
Sara Hart, Department's Representative
Shelley Starr, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's [REDACTED] 2019 and ongoing SNAP benefits.

FINDINGS OF FACT

1. The Appellant resides alone in a SNAP assistance unit consisting of one member. (Appellant's Testimony; Hearing Record)
2. The Appellant's is [REDACTED] years old [REDACTED]) and is not disabled. (Appellant's Testimony)
3. The Appellant's SNAP certification cycle dates are [REDACTED] through [REDACTED]. (Hearing Summary; Hearing Record)
4. On [REDACTED] 2019, the Appellant reported a change by providing to the Department, a wage stub dated [REDACTED] from his employer. (Hearing Summary; Exhibit 4: Wage Stubs; Exhibit 1: Case Notes)
5. The Appellant's provided wage stub reflected gross pay of \$260.00 for 26 hours of employment for the pay period of [REDACTED] 2019 to [REDACTED], 2019. The paystub did not indicate the name of the employer. The paystub reflected YTD earnings of \$1,661.01. (Exhibit 1: Case Note: entry [REDACTED] 2019; Exhibit 4: Wage Stub dated [REDACTED], 2019; Hearing Summary)
6. On [REDACTED] 2019, the Department narrated that they received one wage stub dated [REDACTED], 2019 that represents bi-weekly wages. There is no indication in the hearing record that the Department took further action by requesting additional employment and earnings information or entered the reported earnings. (Exhibit 1: Case Notes; Hearing Record)
7. On [REDACTED] 2019, the Appellant provided the Department with additional wage stubs from [REDACTED] reflecting the following gross pay: [REDACTED] \$300.00 for period [REDACTED]; [REDACTED] /19 \$260.00 for period [REDACTED] /19 to [REDACTED] /19; [REDACTED] /19 \$340.00 for period [REDACTED] /19 to [REDACTED] /19 and [REDACTED] /19 \$240.00 for period [REDACTED] /19 to [REDACTED] /19. (Hearing Summary; Exhibit 4: [REDACTED] paystubs; Hearing Record)
8. On [REDACTED] 2019, the Department sent the Appellant a Notice of Action advising that his SNAP benefits will be \$94.00 for the month of [REDACTED] 2019, and ongoing months. The notice reflects that this calculation was based on bi-weekly wages of \$260.00, cash contributions of \$50.00 per month and rent of \$300.00 per month. (Hearing Summary; Exhibit 2: Notice of Action dated [REDACTED] 2019)

9. The Department calculated the Appellant's average income of \$559.00 based on one submitted paystub dated [REDACTED], 2019, reflecting a gross pay of \$260.00. ($\$260.00 \times 2.15 = \559.00) (Exhibit 5: Post Hearing Exhibit W-1216 SNAP Computation Sheet; Exhibit 2: Notice of Action dated [REDACTED] 2019; Department's Testimony; Hearing Record)
10. The provided paystubs reflect that the Appellant works at [REDACTED] at a \$10.00 per hourly rate and receives weekly pay. The gross weekly pay varies from \$240.00 to \$340.00 per week. (Exhibit 4: [REDACTED] Wage stubs)
11. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which states that a decision must be reached and the household notified within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. Therefore this decision is due not later than [REDACTED] 2020. However, the hearing record which had been anticipated to close on [REDACTED], 2019, was held open for an additional two days for the submission of additional evidence from the Department. Because of the two day delay in the close of the record, the decision is due not later than [REDACTED] 2020, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Commissioner of the Department of Social Services to administer the SNAP program in accordance with federal law.
2. Title 7 of the Code of Federal Regulations ("CFR") 273.1(a)(1) provides that a household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section: an individual living alone.

The Department correctly determined that the Appellant's household is comprised of a household of one, the Appellant.

3. 7 CFR § 273.2 (8)(D)(ii) provides for changes reported during the certification period and provides that changes reported shall be subject to the same verification procedures as apply at initial certification, except that the State agency shall not verify changes in income if the amount has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated.
4. 7 CFR § 273.9 (b) provides that household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

7 CFR § 273.9 (b)(1)(i) provides that earned income shall include: all wages and salaries of an employee.

The Department correctly included the Appellant's earned income in the calculation of SNAP.

5. 7 CFR § 273.10 (c)(1)(i) provides for the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by § 273.12.

7 CFR § 273.10 (c)(2)(i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. 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, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

7 CFR § 273.10 (c)(3)(i) provides that income may be averaged in accordance with methods.

"The department's uniform policy manual is the equivalent of 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)).

Uniform Policy Manual (UPM) § 5025.05(A)(2) provides for converting income to monthly amounts and states for current and future months, the Department uses the best estimate of the amount of income the unit will have, if the exact amount is unknown. This estimate is based upon (b) a reasonable anticipation of what circumstances will exist to affect the receipt of income in future months.

Uniform Policy Manual ("UPM") § 5025.05(B)(2)(a) provides that if income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows: a. if income is the same each week, the regular weekly income is the representative weekly amount.

The Department did not calculate the Appellant's anticipated earnings in the most accurate way as the Department incorrectly determined the Appellant's monthly average earned income based on one submitted paystub.

The Department incorrectly determined that the Appellant's averaged gross earnings total \$559.00 [(\$260.00 x 2.15)]

The Department incorrectly determined the Appellant is paid bi-weekly at [REDACTED].

The Department did not have employment information to correctly determine the Appellant's anticipated income.

The correct SNAP benefit for [REDACTED] 2019, cannot be determined.

DISCUSSION

Based on the testimony and evidence presented, at the time the Department received the Appellant's wage stub and reported income change, the Department did not correctly obtain a representative amount of income to determine a prospective average income. The Department based the Appellant's earnings solely on one paystub that was incorrectly determined as bi-weekly pay. An average with reasonable certainty cannot be determined without having additional consecutive paystubs in which to calculate an average.

At the time of the hearing, the Appellant advised that he had changes pertaining to his employment, income and shelter costs. The Appellant is encouraged to report the changes to the Department for further action.

DECISION

The Appellant's appeal is **remanded** to the Department for further action.

ORDER

1. The Department shall verify the Appellant's employment and obtain an average based on the income received and multiplying his representative weekly amount by 4.3.
2. Proof of Compliance with this order shall be submitted to the undersigned no later than [REDACTED], 2020.


Shelley Starr
Hearing Officer

pc: Tonya Cook-Beckford
Sara Hart

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 06105-3725.

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 06105-3725. 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.