

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

[REDACTED]
SIGNATURE CONFIRMATION

[REDACTED]
Hearing Request # 149802

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2019, the Department of Social Services (the "Department") issued [REDACTED] [REDACTED] (the "Appellant") a notice stating that his Supplemental Nutrition Assistance Program ("SNAP") benefits remain at \$16.00 per month.

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]
Rose Montinat, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's monthly SNAP benefits.

FINDINGS OF FACT

1. The Appellant and his spouse receive SNAP benefits as a household of two. (Hearing record)
2. The Appellant is [REDACTED] years old (D.O.B. [REDACTED]) and his spouse is [REDACTED] years old (D.O.B. [REDACTED]). (Testimony)
3. The Appellant receives monthly Social Security Disability ("S.S.D.") benefits of \$1,099.00. (Hearing record)
4. The Appellant's spouse receives monthly Social Security ("S.S.A.") benefits of \$879.00. (Hearing record)
5. The Appellant and his spouse have Medicare Part B paid through the Department's Qualified Medicare Beneficiary program. (Testimony)
6. The Appellant's monthly rent is \$559.00. (Testimony, Appellant's Exhibit A: copy of lease)
7. The Department allows for the Standard Utility Allowance ("SUA") shelter deduction in the calculation of the Appellant's SNAP benefits. (Exhibit O: SNAP computation sheet)
8. The Appellant and his spouse have monthly out of pocket medical expenses which have not been verified. (Hearing record)
9. On [REDACTED] 2019, the Department sent the Appellant a Notice of Action stating that the household's SNAP benefit remained at \$16.00 per month. (Exhibit 9: Notice of Action [REDACTED] 19)
10. 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.

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 CFR § 273.9(a) provides that participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).
3. Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.10(c)(1)(ii) & (c)(2)(i) provides for converting income into monthly amounts.

Uniform Policy Manual (UPM) § 5025.05(A)(1) provides for converting income to monthly amounts and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.
Or

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.

4. Title 7 of the Code of Federal Regulations ("CFR") § 279.3(b)(2)(ii) provides for counting pensions and social security benefits as unearned income.

Uniform Policy Manual ("UPM") § 5050.09(A) provides that payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.

UPM § 5050.13(A)(6) provides that benefits received from Social Security by any member of a Food Stamps unit is counted in the calculation of eligibility and benefits for the entire unit.

5. The Department correctly determined that the Appellant's household's monthly gross unearned income was \$1,978.00 (Appellant's SSD \$1,099 & Spouses S.S.A \$879.00).
6. Title 7 CFR § 273.9(d)(1)&(3) provides for standard deductions and excess medical deductions.

Regulation provides that members of the assistance unit who are elderly or disabled are allowed medical expenses as deductions. An elderly or disabled assistance unit

member who provides an estimate of the medical expenses he or she expects to incur over a certification period that does not exceed twelve months can choose to have medical expenses averaged over the certification period.

The incurred or anticipated medical expenses which may be deducted are limited to the following:

- a. medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;
- b. hospitalization or outpatient treatment, nursing care, and care in a long term care facility recognized by the State. These expenses include payments made by the assistance unit to a facility on behalf of someone who was an assistance unit member at the time of admission to facility;
- c. prescription and nonprescription medications when prescribed or recommended as treatment for a condition by a licensed practitioner authorized under State law; and the cost of postage for purchasing prescription medications by mail;
- d. purchase or rental of prescribed medical supplies and sick room equipment;
- e. premiums for health and hospitalization insurance except for those which are written to provide lump-sum settlements in the event of death or dismemberment or to protect and maintain income;
- f. premiums for Medicare under Title XVIII of the Social Security Act;
- g. medical expenses paid by the applicant or recipient under Medicaid spenddown or cost-sharing requirements;
- h. dentures, hearing aids, and prosthetics;
- i. securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;
- j. eye glasses prescribed by physician skilled in eye disease or by an optometrist;
- k. reasonable cost for transportation and lodging necessary to obtaining medical treatment or services;
UPM § 5035.15(E)

Title 7 CFR § 273.9(d)(3)(B) Exclusions. The cost of any Schedule I controlled substance under The Controlled Substances Act, 21 U.S.C. 801 et seq., and any expenses associated with its use, are not deductible.

7. As of the hearing date the Appellant has not provided verification of the Household's monthly out of pocket medical expenses. Medical marijuana is not a deductible medical expense in the SNAP program.
8. Title 7 C.F.R. § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.

UPM § 5045.15 provides that the amount of applied income upon which the level of SNAP benefits is based is calculated in the following way:

- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 1. the actual amount of self-employment expenses, if applicable; and
 2. any earned income deductions approved by the Social Security Administration in regards to individual self-support plans (Cross reference: 5035.15); and
 3. a deduction of 20% of the gross earnings for personal employment expenses.
- B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
- C. The amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:
 1. a deduction for farming losses, if any;
 2. a disregard of \$167.00 per month, effective 10-1-19.
 3. a deduction for unearned income to be used to fulfill a bona-fide plan to achieve self-support (PASS); Cross reference: 5035.15
 4. the appropriate deduction for work related dependent care expenses;
 5. deduction for allowable medical expenses for those assistance unit members who qualify;
 6. a deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
 7. a deduction for shelter hardship, if applicable.

(Cross References: 5030 - "Income Disregards" and 5035 "Income Deductions")
- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

9. The Department correctly applied the \$167.00 standard deduction to the total income of \$1,978.00 to determine the amount of the Appellant's household adjusted gross income of \$1,811.00.

10. Title 7 C.F.R. § 273.9(d)(6)(ii) provides for an excess shelter deduction.

UPM § 5035.15(F)(1) provides for the calculation of the shelter hardship for the SNAP and states in part that the amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:

- a. rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings;

11. Title 7 C.F.R. § 273.9(d)(6)(iii) provides for the standard utility allowances.

UPM § 5035.15(F)(6) provides that a standard utility allowance determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:

- a. the assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
- b. the bill is established on the basis of individualized metering of service to the unit; or
- c. the costs are paid:
 - (1) totally or partially by the unit; or
 - (2) partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit's total monthly heating or cooling costs; or
 - (3) totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.

12. Title 7 C.F.R. § 273.9(d)(6)(iii)(B) requires states to review the cost of heating and cooling homes and to update the standard utility allowance ("SUA") based on such costs.

13. The current SUA is \$736.00 monthly.

14. The Appellant's shelter costs are \$1,295.00. (\$559.00 rent + \$736.00 SUA).

15. Title 7 C.F.R. § 271.2 provides for the maximum shelter deduction.

UPM § 5035.15 (F)(10) provides that for those units, which do not have any members who are elderly or disabled, a maximum shelter hardship deduction, which is established by the USDA, is allowed. The maximum shelter hardship is revised annually effective October 1.

The Appellants are elderly and not subject to a maximum shelter hardship.

16. The Appellant's shelter hardship is \$390.00 (\$1,295.00 shelter expenses – \$905.00 [50% of adj gross income])

17. The Appellant's applied income is \$1,421.00 (\$1,811.00 adj. gross - \$390.00 shel. Hardship)

18. Title 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

UPM § 6005(C) provides that in the SNAP, the amount of benefits is calculated by: (1) multiplying the assistance unit's applied income by 30%; and (2) rounding the product up to the next whole dollar if it ends in 1-99 cents; and (3) subtracting the rounded product from the Food Stamp standard of assistance for the appropriate unit size.

19. The Appellant's net adjusted income is \$427 (\$1,421.00 x 30%= \$426.30).

20. Effective [REDACTED] 2019, the Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION	
INCOME	
[REDACTED]	\$879.00
Total Unearned Income	\$1,978.00
Less standard deduction	<u>\$167.00</u>
Adjusted gross income	\$1,811.00
SHELTER COSTS	
Rent	\$559.00
SUA	<u>\$736.00</u>
Total shelter costs	\$1,295.00
SHELTER HARDSHIP	
Shelter costs	\$1,295.00
Less 50% of adjusted gross income	\$905.50
Total shelter hardship	\$389.50

(Can not exceed \$459 unless elderly or disabled)	
ADJUSTED NET INCOME	
Adjusted gross income	\$1,811.00
Less shelter hardship	-\$389.50
Net Adjusted Income (NAI)	\$1,421.50
BENEFIT CALCULATION	
Thrifty Food Plan for two Persons	\$357.00
Less 30% of NAI	-\$427.00
SNAP award (Min Ben)	\$16.00


21. Title 7 CFR § 273.10 provides that except during an initial month, all eligible one-person and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The Appellants are eligible for the minimum benefit of \$16.00 monthly.

DISCUSSION

The Appellant and spouse requested the hearing because they were looking for back payment of SNAP for a medical expense deduction because of medical marijuana. They stated that other SNAP recipients received a medical expense deduction in the SNAP calculation earlier in 2019 for the use of medical marijuana. Federal law prohibits the use of medical marijuana as a medical expense deduction and the Department did not receive a federal waiver to use medical marijuana as a medical expense deduction. SNAP recipients were not eligible for a medical expenses deduction for medical marijuana in 2019. The Appellant and spouse are reviewing other medical expenses and will submit them to be used in the current recertification period.

DECISION

The Appellant's appeal is **DENIED**.


Thomas Monahan
Hearing Officer

C: Musa Mohamud, Operations Manager, Hartford Regional Office
Judy Williams, Operations Manager, Hartford Regional Office
Jessica Carroll, Operations Manager, Hartford Regional Office
Jay Bartolomei, Liaison supervisor
Rose Montinat, Hearing Liaison

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 060105-3725.

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 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.