

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

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

CL ID # ██████████
Hearing Request # 141943

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") issued a Notice of Action which stated that ██████████ (the "Appellant") was ineligible for Supplemental Nutrition Assistance Program ("SNAP") benefits because his household's gross income exceeded the limit for that program.

On ██████████, the Appellant requested an administrative hearing because he disagrees with the Department's determination that he is ineligible for SNAP benefits.

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

On ██████████, 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:

██████████, the Appellant
Eleana Toletti, DSS Fair Hearing Liaison, DSS R. O. #50, Middletown
Maureen Foley-Roy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined that the Appellant was not eligible for SNAP benefits.

FINDINGS OF FACT

1. On [REDACTED], the Appellant applied for SNAP benefits as a single individual. (Exhibit 1: Application submitted [REDACTED])
2. The Appellant is [REDACTED] years old, and employed full time. He does not receive any type of disability benefit. (Exhibit 1)
3. The Appellant is employed 40 hours a week and is paid \$16 per hour. His gross income is \$2560 monthly. (Exhibit 1)
4. In [REDACTED], the Appellant received the following gross wages, \$865.52 on [REDACTED], \$713.68 on [REDACTED], \$731.68 on [REDACTED] and \$647.20 on [REDACTED]. (Exhibit 3: Equifax Employer and Income Report)
5. The Appellant pays \$350 a month for rent. He also pays a telephone bill each month. (Exhibit 1)
6. The Appellant is court ordered to pay \$89.50 in child support each week. (Exhibit 1)
7. On [REDACTED], the Department denied the Appellant's application for SNAP benefits because his income was more than the allowable limit. (Exhibit 2: Notice of Action dated [REDACTED])
8. On [REDACTED], the Department reviewed the Appellant's case and recalculated the Appellant's income. The result was the same, the Appellant's income exceeded the allowable limit. (Exhibit 7: Case Notes)
9. 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]. Therefore, this decision is due not later than [REDACTED] and is timely.

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”) § 273.9(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)). (Emphasis added)
3. Title 7 of the Code of Federal Regulations (CFR) § 273.10(c)(1)(i) provides that 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.
4. 7 CFR § 273.10(c)(3)(i) provides for income averaging and states that income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households. When averaging income, the State agency shall use the household's anticipation of monthly income fluctuations over the certification period. An average must be recalculated at recertification and in response to changes in income, in accordance with § 273.12(c) and the State agency shall inform the household of the amount of income used to calculate the

allotment. Conversion of income received weekly or biweekly in accordance with paragraph (c)(2) of this section does not constitute averaging.

5. "The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
6. UPM § 5025.05 B 2 provides that if income is received other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount.
7. UPM § 5025.05 B 2 b provides that if income varies from week to week, **a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount.** (Emphasis added)

The Department correctly determined that the Appellant's gross income was \$3179.94 per month. ($\$865.52 + \$713.68 + \$731.68 + \$647.20 = \$2958.08/4 = \739.52×4.3)

8. UPM § 5520.40 provides that income eligibility for the SNAP is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance, or SSI.

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
 - a. include one or more persons who are elderly or disabled; or
 - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:
 - a. if the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.
 - b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.
9. Per email from Marc Shok, Adult Services Program Manager, dated June 19, 2009, the Department implemented SNAP changes referred to as Expanded Categorical Eligibility (ECE). Effective July 1, 2009 the gross income limit for SNAP increased to

185% of the Federal Poverty Level for SNAP households that do not contain an elderly or disabled member.

10. The Department correctly determined that the Appellant's household is subject to both the SNAP Gross Income Test and the applied income test.

11. Effective October of 2018, 185% of the Federal Poverty Level for Expanded Categorical Eligibility for a household of one person is \$1872 per month.

12. The Appellant's income of \$3179.94 per month exceeds the Gross Income Limit.

The Department was correct when it denied the Appellant's application for SNAP benefits because he is subject to the gross income test and his income exceeds the allowable limit.

DECISION

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

A handwritten signature in cursive script that reads "Maureen Foley-Roy". The signature is written in black ink and is positioned above a horizontal line.

Maureen Foley-Roy
Hearing Officer

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 06105-3725.

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. 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.