

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

Client ID ██████████
Request #142358

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) approving Supplemental Nutrition Assistance Program (“SNAP”) benefits of \$194.00 per month beginning ██████████ 2019, but denying benefits for the month of ██████████ 2019 due to excess income.

On ██████████, 2019, the Appellant requested an administrative hearing to appeal the Department’s denial of SNAP benefits for ██████████ 2019.

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, 17-61 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
Rosalie Bertolini, Department’s representative
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

1. The issue is whether the Department correctly determined the Appellant's SNAP eligibility for █████ 2019.

FINDINGS OF FACT

1. The Appellant was previously approved for SNAP for the certification period from █████ 2018 to █████, 2019. (Hearing Record)
2. In █████ of 2018, the Appellant babysat for a woman named █████ ("█████") for six weeks, and was paid \$250.00 per week. (Appellant's testimony)
3. █████ has a thick foreign accent. (Appellant's testimony)
4. On █████ 2019, the Appellant submitted a renewal form to the Department so that her SNAP could be recertified for a new period of eligibility. (Ex. 4: Renewal Form)
5. Although the Department had the Appellant's renewal form in-hand, it did not process the renewal timely, and the Appellant's SNAP benefits ended effective █████, 2019, which was the end of her certification period, because the benefits were not renewed on time. (Ms. Bertolini's testimony)
6. On █████ 2019, an eligibility worker for the Department began processing the Appellant's renewal, and conducted a telephone interview with her. (Ex. 5: Case Notes)
7. During the interview the Appellant reported that her employment with the █████ █████ had recently terminated, and that prior to her termination she had been on unpaid leave. (Ex. 5)
8. During the interview, when the eligibility worker asked, because of the Appellant's insufficient income, how she was paying her bills, the Appellant reported that babysitting was a source of income, mentioning both her past employment with █████ and her current job babysitting for a couple ("the Couple"). The eligibility worker understood from the conversation that the Appellant had current income from both employers, and included that information in the case notes. (Appellant's testimony, Ex. 5)
9. On █████ 2019, the Department requested proof of the Appellant's termination of employment with the █████. (Ex. 3: W-1348 Proofs We Need form)
10. On █████ 2019, The Appellant called the Department because she did not receive her SNAP benefits and spoke with a different eligibility worker. The second worker explained that verification of her terminated employment with

██████ was still pending. The worker asked the Appellant about her babysitting income and confirmed that she was paid \$250.00 per week by ██████ and that she was currently employed by the Couple for \$265.00 per week, and that the job started about six weeks earlier. The second worker recorded in the case notes that the Appellant received \$250.00 per week from “parent #1” and \$265.00 per week from “parent #2”, and that the babysitting income started about six weeks earlier. (Appellant’s testimony, Ex. 5)

11. On ██████, 2019, the Appellant called the Department and reported to a third eligibility worker that she started a new full time job with ██████. She told the third worker that the Couple refused to write her a letter about what they paid her for babysitting. The worker then called ██████ under the assumption, after reading the prior workers’ case notes, that ██████ must be “parent #1” and the father of her child must be “parent #2”. The worker confirmed with ██████ that she paid the Appellant \$250.00 per week but, after ██████ explained that her child’s father did not pay separately from her, updated the record to reflect that the Appellant had no babysitting income from any second employer, not understanding that the Couple was entirely unrelated to ██████. The third worker wrote his or her understanding of the facts in the case notes and updated the earnings to reflect \$250.00 per week from ██████. The Department was awaiting pay stubs to verify the ██████ earnings. (Ex. 5)
12. On ██████, 2019, the Appellant called the Department to inquire about the status of the verification she uploaded and spoke with a fourth eligibility worker. The worker checked and located the pay stubs from ██████. The income from the full time job, added to the \$250.00 per week babysitting income verified by the previous worker, exceeded the SNAP income limit and closed the Appellant’s case. (Ex. 5)
13. On ██████, 2019, the Appellant called the Department to find out why her SNAP closed and spoke with a fifth eligibility worker. She explained to the worker that the babysitting income from ██████ was from a long time ago. The worker noted that the income had already been verified by a different worker but called ██████ to clear up the confusion. ██████ then explained to the fifth worker that the babysitting job only lasted for six weeks in 2018 and had ended. (Ex. 5, Appellant’s testimony)
14. When the Appellant started her new full time job, her babysitting job for the Couple ended. Her only income now is from ██████. (Appellant’s testimony)
15. On ██████, 2019, the fifth worker updated the case to reflect that the \$250.00 per week babysitting income from ██████ had ended. Based on just her earnings from ██████, the Appellant qualified for an ongoing SNAP benefit of \$194.00 per month beginning ██████, 2019. (Ex. 5)

16. On [REDACTED], 2019, the Department issued a NOA to the Appellant denying SNAP for [REDACTED] due to excess income, but approving an ongoing SNAP benefit of \$194.00 beginning [REDACTED] 2019. (Ex. 2: NOA dated [REDACTED] 2019)
17. On [REDACTED], 2019, the Appellant requested a fair hearing to appeal the Department's determination that she was not eligible for SNAP for [REDACTED] 2019.
18. On [REDACTED], 2019, the Department received a letter from [REDACTED] that explained that the Appellant only babysat for her for 6 weeks in [REDACTED] 2018 and [REDACTED] 2018, and that she already provided this information to two Department representatives who called her on her cell phone. (Ex. 5, Ex. 6: Letter from [REDACTED])
19. The Department has determined that the Appellant is not eligible for a SNAP benefit for [REDACTED] 2019 because reported changes must take effect only as of the month following the month when the change is reported and verified; the change was reported in [REDACTED] 2019 so the change is effective [REDACTED] 2019. The Department does not consider the change to be part of the Appellant's SNAP recertification. (Ex.5, Ms. Bertolini's testimony)

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 in accordance with federal law.
2. Households not certified for a one or two-month period that submit applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification. Title 7 of the Code of Federal Regulations ("CFR") Section 273.14(c)(2)
3. **The Appellant made a timely application for certification by submitting her renewal form to the Department on [REDACTED] 2019.**
4. "The State agency must schedule all interviews as promptly as possible to insure eligible households receive an opportunity to participate within 30 days after the application is filed...." 7 CFR § 273.2(e)(3)
5. **The Appellant's application for recertification was not timely processed by the Department. The Department did not begin processing the recertification until [REDACTED] 2019, after the Appellant's certification period had ended.**
6. 7 CFR § 273.14(e)(1) provides as follows:

If an eligible household files an application before the end of the certification period but the recertification process cannot be completed within 30 days after the date of the application because of State agency fault, the State agency must continue to process the case and provide a full month's allotment for the first month of the new certification period. The State agency shall determine cause for the delay in processing a recertification application in accordance with the provisions of §273.3(h)(1).

7. **The Department was required to continue processing the Appellant's recertification until it was complete. █████ 2019, the first month of the new certification period was part of the recertification process due to the delay in processing caused by the Department. Upon completion of the recertification, the Appellant was entitled to a full month's SNAP allotment for █████ 2019.**
8. 7 CFR § 273.10(c)(1)(ii) provides, in relevant part, as follows:

The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period....The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits....
9. "The State agency shall restore to households benefits which were lost whenever the loss was caused by an error by the State agency..." 7 CFR 273.17(a)
10. "If the State agency determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, the State agency shall automatically take action to restore any benefits that were lost. No action by the household is necessary...." 7 CFR 273.17(b)
11. **The recertification process requires an accurate determination of eligibility and benefits. The Department's determination of the Appellant's █████ 2019 eligibility was based on erroneous information. The Department, having now verified the actual circumstances, must issue the Appellant a full month's allotment for █████ 2019 based on an accurate determination of her household's eligibility.**

DISCUSSION

The Appellant's case was never worked on by the same eligibility worker twice, and each worker that touched the case relied, in part, on prior notes made by other workers. It seems that when the Appellant reported both past and present income to the first eligibility worker to explain how she had been paying her bills, the worker understood that both babysitting jobs were current, and that both jobs had started *six weeks earlier*. When the next eligibility worker placed a call to █████ who confirmed that the Appellant worked for her for six weeks (*six weeks in total*), the worker (using

the previous worker's notes as guidance) misunderstood it as confirmation that the Appellant was currently employed and started six weeks earlier.

The facts of this case are difficult to sort out, but the most essential fact is that, *as of [REDACTED], 2019, the Department considered it a verified fact that the Appellant never received any income from [REDACTED] 2019.*

The Department was incorrect in two ways:

First, verifying the [REDACTED] income was part of the recertification process. The Department started working on the Appellant's timely-filed recertification late. When a delay in recertifying SNAP benefits is caused by the Department, the processing time extends into the first month of the new certification period. It was the Department's obligation to issue benefits based on accurately verified information beginning with the first day of the first month of the Appellant's new certification period.

Second, the Department cited "change reporting rules" as the reason the Appellant was not eligible for a benefit until [REDACTED] 2019. This is an incorrect understanding of what a change report is. Even if this misunderstanding had nothing to do with the Appellant's recertification, the Department would still owe her benefits for [REDACTED] 2019. The babysitting income from [REDACTED] was *counted erroneously in the first [REDACTED]* – it never existed in 2019, not just according to the Hearing Officer's Findings [REDACTED] Fact, but according to the Department's own findings. When an individual calls an error in their benefit calculation to the Department's attention, it does not constitute a change report. Whenever a household receives less than it was eligible for because of erroneous information entered by the Department, the household is entitled to restoration of the lost benefits.

"The State agency shall automatically take action to restore any benefits that were lost. No action by the household is necessary...." [7 CFR 273.17(b)]

DECISION

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

ORDER

1. The Department must remove the erroneously budgeted [REDACTED] 2019 babysitting income and restore SNAP benefits to the Appellant for that month.
2. The Department must provide proof to the undersigned hearing officer, by no later than [REDACTED], 2019, that the [REDACTED] 2019 benefits have been restored.

James Hinckley

James Hinckley
Hearing Officer

cc: Carol Sue Shannon
Rosalie Bertolini

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.