# 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**



# 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) 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

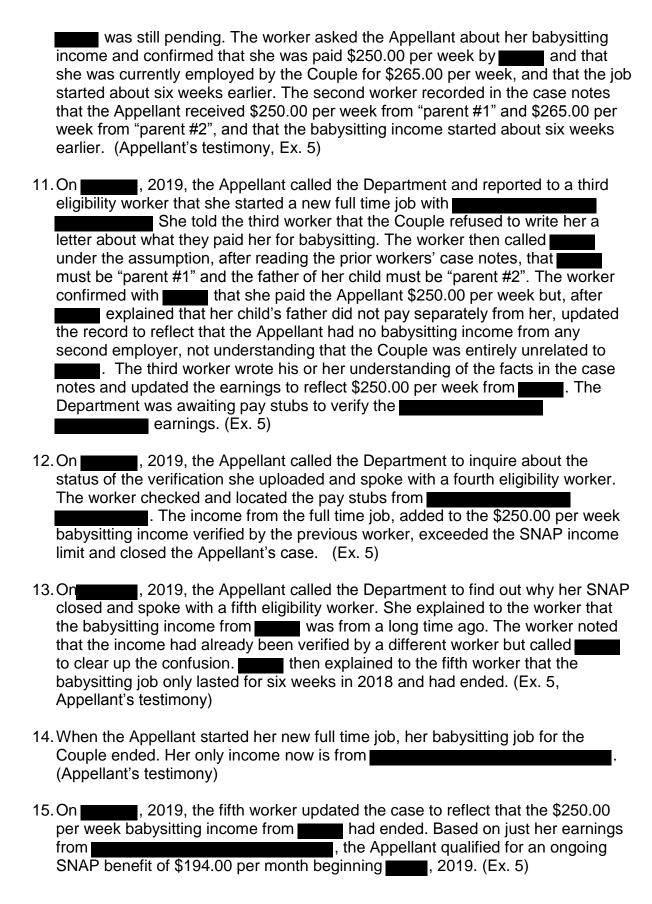
# 9. On 2019, the Department requested proof of the Appellant's termination of employment with the 2019. (Ex. 3: W-1348 Proofs We Need form)

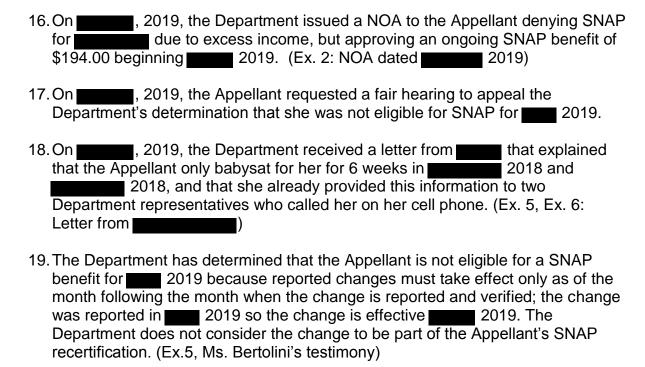
Appellant had current income from both employers, and included that information

Couple"). The eligibility worker understood from the conversation that the

in the case notes. (Appellant's testimony, Ex. 5)

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





#### **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 15<sup>th</sup> 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 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 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 2019, the Department considered it a verified fact that the Appellant never received any income from 2019.

The Department was incorrect in two ways:

First, verifying the 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 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 2019. The babysitting income from was counted erroneously in the firs 1 in ever existed in 2019, not just according to the Hearing Officer's Findings 1 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 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 2019, that the 2019 benefits have been restored.

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 <u>specific</u> 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.