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 # Hearing Request # 143604

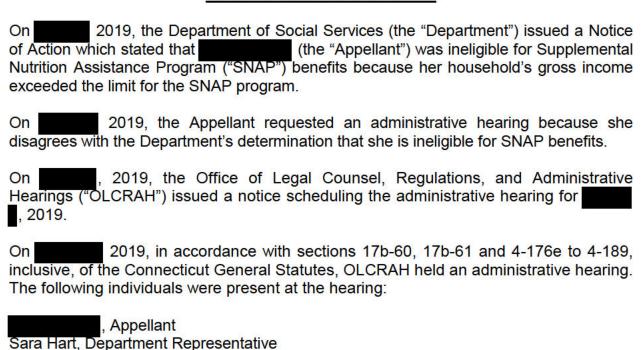
NOTICE OF DECISION

PARTY



Shelley Starr, Hearing Officer

PROCEDURAL BACKGROUND



The hearing record was held open for the submission of additional exhibits from the Department that was requested by the hearing officer. The exhibits were received from the Department. On 2019, the hearing record closed.

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 2019, the Appellant applied for SNAP benefits as a single individual, residing in a household consisting of one member. (Hearing Summary; Exhibit 1: Application submitted 2019)
2.	The Appellant is years old and is a contracted employee for the as a para-educator. She is employed 32 hours per week and is paid \$18.85 per hour. Her gross income is \$25,937.60 annually or \$2,161.45 per month. (Exhibit 4: , 2019; Hearing Summary; Hearing Record)
3.	The Appellant was injured on the job on an extended period of time. She did not receive all of her contractual earned income from the (Appellant's Testimony; Hearing Record)
4.	The Appellant was awarded a period of worker's compensation. Her compensation benefits ended pending further litigation. (Post Hearing Exhibit Letter from , 2019; Appellant's Testimony; Hearing Record)
5.	On 2019, the Appellant returned to work at the working 16 hours per week until the school year ended on (Appellant's Testimony; Hearing Record)
6.	The Appellant is not eligible for unemployment. (Hearing Summary; Appellant's Testimony)
7.	On 2019, the Department denied the Appellant's application for SNAP benefits because her income was more than the allowable limit. (Exhibit 3: Notice of Action dated 2019)
8.	The Department calculated the Appellant's monthly income based on ten months of contractual earned income from the budgeted over the 12 calendar months that her income is intended to support. (32 (hours) x \$18.85 (rate) = $$603.20 \times 2 = $1,206.40 \times 2.15$ (bi-weekly) = $$2,593.76 \times 10$ (months) = $$25,937.60 / 12$ (months) = $$2,161.45$ per month / $2.15 = $1,005.33$ (bi-weekly). (Exhibit 2: Case Notes; Hearing Summary)

- The SNAP gross income limit per month for an individual is \$1,872.00, which is 185
 FPL. (Hearing Summary; Hearing Record; Income Limits & Standards)
- 10. There is no evidence in the hearing record that the Department considered that the Appellant was not receiving 32 hours of weekly pay due to her work injury and her inability to work at the school. (Hearing Record)
- 11. There is no evidence in the hearing record that the Department calculated the actual earned income received by the Appellant under contract, to determine an average for the period of time it was intended to cover. (Hearing Record)
- 12. The Appellant is anticipated to return to the educator on 2019, for the 2019-2020 academic school year. (Exhibit 4: Letter 2019; Hearing Record)
- 13. 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 2019. Therefore, this decision is due not later than 2019, and is timely.

CONCLUSIONS OF LAW

- 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).
- 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. 7 CFR § 273.9 (b) (1)&(2)(ii) provides in part that (1) earned income shall include: all wages and salaries of an employee. (2) unearned income shall include, but not be limited to annuities, pensions, retirement, veteran's or disability benefits, worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in § 272.12.

UPM § 5000.01 Treatment of Income Definitions states that:

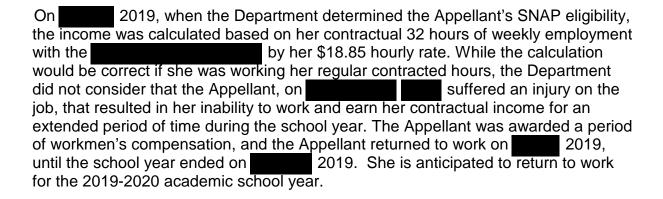
<u>Earned Income</u> is income which the assistance unit receives in exchange for the performance of duties or through self employment and may be in the form of wages, salary, benefits or proceeds from self-employment. <u>Unearned Income</u> is income which does not constitute compensation for work or services performed or business conducted and includes returns from capital investments when the individual is not actively involved in the production of income.

7. 7 CFR § 273.10 (3)(iii) provides for contractual or self-employment income and states that households which, by contract or self employment, derive their annual income in a period of time shorter than 1 year shall have that income averaged over a 12 month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farmworkers. The procedures for averaging self-employed income are described in § 273.11. Contract income which is not the household's annual income and is not paid on an hourly

UPM § 5025.10 provides for Income Received Less Frequently Than Monthly and states in part that the Department prorates payments over a period of time in the following situations: 1.) When the income was earned over a past period of time, the payment is averaged retroactively over the number of months in which it was earned; 2.) When the income is paid subject to an employment agreement which provides for periodic advances to cover future needs, the payment is averaged by the number of months for which it is intended;

The Department incorrectly averaged the Appellant's contractual gross Income as \$25,937.60 annually because she was injured on the job and did not received all of her contractual earned income. She was injured on 2018, and did not return to work until 2019. She worked only 6 weeks 19 – 19) in the 2019 academic school calendar year.

DISCUSSION



DECISION

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

ORDER

- 1. The Department shall reopen the Appellant's 2019, SNAP application.
- 2. The Department shall recalculate the Appellant's 2018-2019 contractual earnings based on the gross income actually received under the contract and average it over the period of time it was intended to cover. The Department shall continue to determine SNAP eligibility.
- 3. Proof of compliance with this order shall be sent to the undersigned no later than 2019.

Shelley Starr Hearing Officer

pc: Tonya Cook-Beckford, DSS, Willimantic Sara Hart, DSS, Willimantic

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 <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.