

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 # ██████████  
Case ID# ██████████  
Request # 144498

NOTICE OF DECISION

PARTY

████████████████████  
████████████████  
████████████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") issued to ██████████ ██████████ (the "Appellant") a Notice of Action, discontinuing her Supplemental Nutrition Assistance Program ("SNAP") benefits.

On ██████████ 2019, the Appellant requested an administrative hearing because she disagrees with the discontinuance of his SNAP benefits.

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, 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  
Garfield White, Department's Representative  
Scott Zuckerman, Hearing Officer

## **STATEMENT OF THE ISSUE**

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

## **FINDINGS OF FACT**

1. The Appellant received SNAP benefits for a household of three and was certified through [REDACTED] 2019. (Hearing Summary)
2. The Appellant's child's father, [REDACTED], is employed at [REDACTED] [REDACTED] (Exhibit 1: Case notes, [REDACTED] 19 and Exhibit 4: Wage stubs)
3. On [REDACTED], 2019, the Department reviewed the following weekly gross wages received as part of the Appellant's renewal of Eligibility: [REDACTED]/19 \$722.00; [REDACTED]/19 \$370.50; [REDACTED] 19 \$817.00 and [REDACTED] 19 \$750.50. (Ex. 1: Case notes, [REDACTED]/19 and Wage stubs)
4. The Department did not consider the [REDACTED] 19 wage stub of \$370.50 in its calculation of monthly income because it was "unusually low". (Ex. 1 Case note, [REDACTED]/19)
5. The Appellant pays rent of \$1371.00 per month. (Appellant's testimony, Hearing Summary)
6. The Appellant is responsible for heating expenses and receives the Standard Utility Allowance ("SUA"). (Hearing Record)
7. On [REDACTED] [REDACTED] 2019, the Department sent the Appellant a Notice of Action discontinuing her SNAP benefits effective [REDACTED], 2019. The notice stated, "The monthly gross income of your household is more than the limit for this program." (Exhibit 3: Notice of Action, [REDACTED]/19)
8. 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] 2019.

## **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. "The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178(1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. Title 7 of the Code of Federal Regulations (CFR) § 273.1(a)(3) provides for general household definition and states that a household is composed of one of the following individuals or groups of individuals unless otherwise specified in paragraph (b) of this section: A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

**The Department correctly determined the Appellant's household consists of three people.**

4. Title 7 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.
5. Title 7 CFR § 273.10(c)(1)(ii) provides for converting income into monthly amounts and provides in part that income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income.
6. Title 7 CFR § 273.10(c)(2)(i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

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) 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: if income is the same each week, the regular weekly income is the representative weekly amount; if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount.

**The Department incorrectly determined the Appellant's household gross monthly income was \$3281.62 ( $722.00 + 817.00 + 750.50 = \$2289.50 / 3 \text{ weeks} = \$763.17 \times 4.3 = \$3281.62$ ).**

**The Department failed to use a 30-day average or a longer period of past time due to fluctuating income when it determined the Appellant's household gross income.**

7. Title 7 CFR S 273.9 (a) provides for income eligibility standards and states 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 SNAP. 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 SNAP.
8. The Department correctly determined that the Appellant's household must pass the gross income and net (applied) income tests because there are no elderly or disabled household members.
9. Under expanded eligibility, the SNAP gross income limit equals 185 percent of the federal poverty level, (FPL).
10. The FPL for a household of three is \$1732.00 monthly. (USDA SNAP 2019 Income Eligibility Standards).
11. The gross income limit for an assistance unit of three people as of January 2019 is \$3204.00 (185% FPL)

**Based on the hearing record, the Appellant's gross monthly income cannot be determined and therefore it cannot be determined whether the Appellant's household income exceeded the limit for a three.**

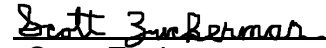
### **DECISION**

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

### **ORDER**

1. The Department must recalculate the Appellant's household income. The Department will use a 30-day representation of wages that were provided at the time of renewal or use a longer period of past wages due to the fluctuating income.

2. The Department will reopen and process the SNAP renewal effective [REDACTED] 19 and issue a Notice of Action explaining the results of the eligibility determination.
3. Compliance with this order is due by [REDACTED] 2019, and will consist of the Notice of Action based on the eligibility determination.

  
Scott Zuckerman  
Hearing Officer

Pc: Musa Mohamud, Operations Manager, DSS, Hartford Regional Office  
Judy Williams, Operations Manager, DSS, Hartford Regional Office  
Jessica Carroll, Operations Manager, DSS, Hartford Regional Office  
Jay Bartolomei, Fair Hearing Liaison Supervisor, DSS, Hartford Office  
Garfield White, Fair Hearing Liaison, Hartford Regional Office

### **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.