

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 # 144649

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”), a Notice of Action (“NOA”) granting her Supplemental Nutritional Assistance Program (“SNAP”) benefits for ██████████ 2019.in the amount of \$3.00 and for ██████████ 2019 and ongoing in the amount of \$268.00.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the amount of her 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:

██████████, Appellant

Brahim Abarkha, Interpreter, ITI Translates
 Omayra Otero, Department's Representative
 Marci Ostroski, Hearing Officer

A copy of this decision has been issued in English and in French.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's SNAP benefits for the months of [REDACTED] and [REDACTED] 2019.

FINDINGS OF FACT

1. The Appellant is a recipient of SNAP in an assistance unit consisting of four members, herself, her spouse, and her two children. (Appellant's Testimony; Ex. 5: Notice of Action, [REDACTED]/19; Ex. 1: Periodic Review Form)
2. The Appellant is disabled and receives Supplemental Security Income ("SSI") from the Social Security Administration ("SSA"). (Ex. 4: Eligibility Determination Document, Appellant's testimony)
3. On [REDACTED], 2019, the Department closed the Appellant's SNAP benefits for failure to provide the periodic report form ("PRF") by the due date. (Hearing Summary, Ex. 2: Notice of Action, [REDACTED]/19)
4. On [REDACTED] 2019, the Appellant went to the Department's office to reapply for SNAP benefits. The Department screened a new application dated [REDACTED] 2019, and interviewed the Appellant. (Ex. 3: Case Notes, [REDACTED]/19, Hearing Summary)
5. The Department determined through a search through the Department of Labor and the Work Number that the Appellant's spouse was employed at [REDACTED] (Ex. 3: Case Notes, [REDACTED]/19, Ex. 11: Work Number printout)
6. At the time of the application on [REDACTED] 2019, the Appellant's spouse's weekly gross wages were as follows: \$710.83 on [REDACTED]/19, \$248.15 on [REDACTED]/19, \$242.53 on [REDACTED]/19, and \$481.40 on [REDACTED]/19. The Appellant's spouse's gross monthly wages equal \$1809.13 ($710.83 + 248.15 + 242.53 + 481.40 = 1682.91 / 4 * 4.3 = \1809.13). (Ex. 11: Work Number printout)
7. The Appellant receives \$520.00 per month in SSI. The household has no other sources of income. (Ex. 8: Unearned Income Details printout, Hearing Record; Appellant's Testimony)
8. The Appellant reported a rental responsibility of \$745.00 per month and she is also responsible for utilities. She receives the Standard Utility Allowance ("SUA"). (Ex. 4: Eligibility Determination Document; Ex. 9: Federal SNAP Income Test, Appellant's testimony, Department's testimony)

9. The Appellant has no reported out of pocket medical expenses, dependent care or child support deductions. (Ex. 4: Eligibility Determination Document, Appellant's testimony)
10. On ██████████ 2019, the Department issued a Notice of Action to the Appellant granting the SNAP benefits in the amount of \$3.00 for ██████████ 2019 and \$268.00 for ██████████ and ongoing. (Ex. 1: Notice of Action, ██████████/19, Department's testimony)
11. 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 requested 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

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") §273.1 provides for the household concept. (a) General household definition. A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section: (1) An individual living alone; (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption. (b) Special household requirement (1) Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified. (i) Spouses; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).
3. Title 7 CFR § 271.2 provides for the definition of *elderly or disabled member* to include individuals who receive supplemental security income benefits under title XVI of the Social Security Act.
4. The Appellant is considered a disabled member for purposes of the SNAP program, because she receives SSI benefits.
5. "The Department's uniform policy manual is the equivalent of 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)).

6. Uniform Policy Manual (“UPM”) § 2020.10 provides the assistance unit must include certain individuals who are in the home, if they are not specifically excluded or ineligible to participate in the Food Stamp program (A) Those who are related as follows must be included in the assistance unit, except when the child or adult is a foster child or foster adult: 1. a child under age 18 under the parental control of a member of the assistance unit; 2. a spouse of a member of the assistance unit including any who presents himself or herself as a spouse; 3. children ages 18 through 21 living with their parents.
7. The Department correctly determined that the Appellant’s SNAP assistance unit consists of four people.
8. Title 7 CFR § 273.9(b)(2)(ii) provides for counting pensions and social security benefits as unearned income.
9. UPM 5050.13(B)(5) provides S.S.I. income received by members of a Food Stamp assistance unit is treated as unearned income and is counted in determining eligibility and calculating benefits for the entire unit.
10. The Appellant’s \$520.00 SSI income is counted in determining her SNAP eligibility.
11. Title 7 CFR § 273.9(b)(1) provides that household income shall include all wages and salaries of an employee.
12. UPM § 5005(A) provides that the Department counts the assistance unit’s available income, and that income is considered available if it is:
 1. received directly by the assistance unit,
 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
 3. deemed by the Department to benefit the assistance unit.
13. The Department correctly included the gross earnings of the Appellant’s spouse when calculating the SNAP benefits.
14. Title 7 CFR § 273.10(c)(1)(ii) & (c)(2)(i) provides for converting income into monthly amounts.
15. UPM 5025.05(b) provides:
 1. If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.
 2. 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:
 - a. If income is the same each week, the regular weekly income is the representative weekly amount;
 - b. If income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount;

- c. If there has been a recent change or if there is an anticipated future change, the amount expected to represent future income is the representative weekly amount;
 - d. If income is received on other than a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered
16. The Appellant's spouses earned income based on four consecutive weeks of gross earnings and averaged by 4.3 is included when calculating the Appellant's SNAP eligibility.
17. The Appellant's spouse's average gross earnings total \$1809.13 ($710.83 + 248.15 + 242.53 + 481.40 = 1682.91 / 4 * 4.3 = \1809.13).
18. Title 7 CFR § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.
19. UPM § 5045.15 provides that the amount of applied income upon which the level of SNAP benefits is based is calculated in the following way:
- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 - 1. the actual amount of self-employment expenses, if applicable; and
 - 2. any earned income deductions approved by the Social Security Administration in regards to individual self-support plans (Cross-reference: 5035.15); and
 - 3. a deduction of 20% of the gross earnings for personal employment expenses.
 - B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
 - C. The amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:
 - 1. a deduction for farming losses, if any;
 - 2. a disregard of \$164.00 per month; {effective October 1, 2018}
 - 3. a deduction for unearned income to be used to fulfill a bonafide plan to achieve self-support (PASS); Cross- reference: 5035.15
 - 4. the appropriate deduction for work- related dependent care expenses;
 - 5. deduction for allowable medical expenses for those assistance unit members who qualify;
 - 6. a deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
 - 7. a deduction for shelter hardship, if applicable.
(Cross References: 5030 - "Income Disregards" and 5035 "Income Deductions")
 - D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.
20. The Appellant's adjusted gross income equals \$1793.30 ($\$1809.13 - 361.83$ (20% deduction) - \$174.00 (standard deduction) + \$520.00 (SSI unearned income)= \$1793.30
21. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.

22. UPM § 5035.15(F)(1) provides for the calculation of the shelter hardship for the SNAP and states in part that the amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:
- a. rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings;
23. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.
24. UPM § 5035.15(F)(6) provides that a standard utility allowance determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:
- a. the assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
 - b. the bill is established on the basis of individualized metering of service to the unit; or
 - c. the costs are paid:
 - (1) totally or partially by the unit; or
 - (2) partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit's total monthly heating or cooling costs; or
 - (3) totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.
25. The Standard Utility Allowance is \$736.00 effective October 1, 2018.
26. Title 7 CFR § 271.2 provides for the maximum shelter deduction.
27. UPM § 5035.15(F)(10) provides that for those units which do not have any members who are elderly or disabled, a maximum shelter hardship is revised annually effective October 1. (Maximum shelter hardship effective October 1, 2018, is \$552.00).
28. The Department incorrectly determined that the Appellant's shelter hardship is capped at \$552.00.
29. The Appellant's shelter costs totaled \$1481.00 (\$745.00 (rent) + \$736.00 (Standard Utility Allowance) = \$1481.00)
30. Title 7 CFR § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

31. UPM § 6005(C) provides that in the SNAP, the amount of benefits is calculated by (1) multiplying the assistance unit's applied income by 30%; and (2) rounding the product up to the next whole dollar if it ends in 1-99 cents; and (3) subtracting the rounded product from the Food Stamp standard of assistance for the appropriate unit size.

32. Effective [REDACTED] 2019, the Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION	
INCOME	
Earned Income	\$1809.13
Less 20 percent	-\$361.83
= Adjusted earned income	\$1447.30
+ Unearned income	\$520.00
= Total income	<u>\$1967.30</u>
- Standard deduction	-\$174.00
- Medical expenses	\$0.00
-Dependent care expenses	\$0.00
=Adjusted gross income	\$1793.30
SHELTER COSTS	
Rent	\$745.00
+ SUA	<u>\$736.00</u>
Total shelter costs	\$1481.00
SHELTER HARDSHIP	
Shelter costs	\$1481.00
Less 50% of adjusted gross income	<u>-\$896.65</u>
= Total shelter hardship (max \$552 if not disabled or elderly)	\$584.35
ADJUSTED NET INCOME	
Adjusted gross income	\$1793.30
Less shelter hardship	<u>-\$584.35</u>
Net Adjusted Income (NAI)	\$1208.95
BENEFIT CALCULATION	
Thrifty Food Plan for four persons	\$642.00
Less 30% of NAI (rounded up to nearest whole dollar)	<u>\$363.00</u>
SNAP award	\$279.00

33. Title 7 CFR § 273.10 (a) (ii) provides that A household's benefit level for the initial months of certification shall be based on the day of the month it applies for benefits

and the household shall receive benefits from the date of application to the end of the month unless the applicant household consists of residents of a public institution.

34. UPM § 6020.05 (A)(4) provides the formula used to calculate the amount of reduced benefits is the following:

1. subtract the number of the day of the month on which eligibility initially exists from the number 31;
2. multiply the full amount of monthly benefits by the result of "a";
3. divide the result of "b" by 30;
4. the result is the amount of pre-rounded prorated benefits.

35. The amount of the Appellant's prorated SNAP benefit for [REDACTED] is \$232.50 [(31-number of the day of the month on which eligibility initially exists (6)=25) X 279.00 (full amount of monthly benefit for [REDACTED] 19)] /30.

36. The Appellant's [REDACTED] 2019 SNAP benefit equals \$232.00.

37. The Appellant's [REDACTED] 2019 benefit equals \$279.00

DISCUSSION

After reviewing the evidence and testimony presented, I find the Department erred in its calculation of SNAP benefits for the months of [REDACTED], 2019 and ongoing. The Appellant is a recipient of SSI, the Appellant's status as a disabled individual entitles her to an uncapped shelter hardship deduction which it appears from the Department's exhibits was never applied.

The documentation also supports that the Department failed to apply the 20% earned income deduction for the month of [REDACTED] 2019. The Appellant's [REDACTED] 2019 reapplication is a new application for assistance and she is entitled to the deduction. The Department had the spouse's current wages at application and should have used the last four weeks gross wages from the Appellant's spouse to calculate eligibility. It is unclear from the Hearing record and Department's testimony how the eligibility for [REDACTED] was calculated.

DECISION

The Appellant's appeal is **GRANTED**

ORDER

1. The Department will correct the SNAP benefit for the month of [REDACTED] to \$232.00 and issue the appropriate underpayment
2. The Department will correct the SNAP benefit for the months of [REDACTED] and ongoing to \$279.00 and issue the appropriate underpayment.
3. Compliance with this order is due to the undersigned within ten (10) days of the date of this decision or [REDACTED] 2019.



Marci Ostroski
Hearing Officer

CC: Judy Williams, Musa Mohamud, Jessica Carroll, Operations Managers, Hartford Regional Office
Jay Bartolomei, Fair Hearing Liaison Supervisor, Hartford Regional Office
Omayra Otero, 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 060105-3725.

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 06105-3725. 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.