

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105

██████████ 2019
Signature confirmation

Case: ██████████
Client: ██████████
Request: 144886

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a notice denying her Supplemental Nutrition Assistance Program ("SNAP") application.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received the Appellant's telephoned request for an administrative hearing.

On ██████████ 2019, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2019. The OLCRAH granted the Appellant two postponements of her hearing date.

On ██████████, 2019, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals attended the hearing:

██████████, Appellant
Jennifer Miller, Department's representative
John Lombardi, Department's witness
Eva Tar, Hearing Officer

The hearing officer extended the close of the hearing record to ██████████ 2019 for the submission of the Appellant's rebuttal evidence and to ██████████ 2019 for the submission of comment by the Department. The Appellant timely submitted her evidence; the Department did not submit comment.

The administrative hearing record closed [REDACTED] 2019.

STATEMENT OF ISSUE

The issue is whether the Department correctly denied the Appellant's SNAP application for income in excess of the program standards. The Department alleges that the Appellant's SNAP household contains an unreported adult member, whose income generated the denial of the Appellant's SNAP application.

FINDINGS OF FACT

1. The Appellant and [REDACTED] (the "father") were the parents of a minor child. (Appellant's testimony)(Agency Exhibit 7)
2. The father's current employer identified the father's residence as [REDACTED] [REDACTED] (the "[REDACTED] address"). (Agency Exhibit 6)
3. On [REDACTED] 2019, the Appellant, the father, and another adult individual entered into a one-year rental agreement with respect to [REDACTED] (the "[REDACTED] address") where each tenant was jointly and severally liable for the payment of the monthly rent. (Agency Exhibit 1)
4. The father co-signed the lease for the [REDACTED] address as the Appellant's credit was bad. (Appellant's testimony)
5. In [REDACTED] 2019, the Appellant moved into the [REDACTED] address; the father did not move into the [REDACTED] address. (Appellant's testimony)
6. On [REDACTED], 2019, the father registered a [REDACTED] to the [REDACTED] address. (Appellant's Exhibit B)
7. On [REDACTED] 2019, the father registered a [REDACTED] to the [REDACTED] address. (Appellant's Exhibit A)
8. The father allowed the Appellant to use one of the father's vehicles for transportation and errands; this vehicle is parked in the driveway at the [REDACTED] address. (Appellant's testimony)
9. On [REDACTED] 2019, the Appellant filed a SNAP application for two people: the Appellant and the minor child. (Agency Exhibit 7)
10. The Department administratively added the father to the Appellant's SNAP household. (Department's representative testimony)
11. On [REDACTED] 2019, the Department denied the Appellant's SNAP application, citing the household's income as exceeding that program limits. (Agency Exhibit 7)

12. Title 7, Code of Federal Regulations (“C.F.R.”) 273.15 (c)(1) and (c)(4) provides in part that “[w]ithin 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision....” “The household may request and is entitled to receive a postponement of the scheduled hearing....” 7 C.F.R. § 273.15 (c)(4).

On [REDACTED] 2019, the OLCRAH received the Appellant’s telephoned hearing request. The issuance of this final decision initially would have been due by [REDACTED] 2019. However, the OLCRAH granted the Appellant two postponements of the administrative hearing as well as the Appellant’s request for a 10-day extension to the close of the hearing record. The deadline for the issuance of this final hearing decision therefore extended to [REDACTED] 2019. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services “as the state agency for the administration of ... (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008....” Conn. Gen. Stat. § 17b-2.

“The commissioner shall grant aid only if he finds the applicant eligible.... The commissioner, ... , shall in determining need, take into consideration any available income and resources of the individual claiming assistance.” Conn. Gen. Stat. § 17b-80 (a).

The Department had the authority to review the Appellant’s SNAP application to determine if her household met the eligibility requirements of the program.

2. A natural or adoptive parent or step-parent is a mandatory member of a SNAP household in which he and his minor child resides. Title 7, Code of Federal Regulations (“C.F.R.”) 273.1 (b)(1)(ii).

“State agencies shall verify factors affecting the composition of a household, if questionable....” 7 C.F.R. § 273.2 (f)(1)(x).

Title 7, Section 273.2 (f)(4)(i) of the Code of Federal Regulations provides:

State agencies shall use documentary evidence as the primary source of verification for all items *except residency and household size*. These items may be verified either through readily available documentary evidence or through a collateral contact without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household’s circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills....

7 C.F.R. § 273.2 (f)(4)(i) (emphasis added).

By a preponderance of the evidence, the Appellant established that her SNAP household in [REDACTED] 2019 did not include the father of the Appellant’s minor child.

The Department in error administratively added the father to the Appellant's SNAP household, even though the Appellant did not list the father on her [REDACTED] 2019 SNAP application as a household member.

The Department in error denied the Appellant's [REDACTED] 2019 SNAP application on [REDACTED] 2019 by incorporating the father's gross wages in the SNAP eligibility calculation.

DISCUSSION

The Department asserted that the father of the Appellant's minor child resided with the Appellant and their child in [REDACTED]; the Department pointed to the Appellant's [REDACTED] 2019 lease that the father co-signed and a screen print of the Department of Motor Vehicles' website that identified the father's *mailing address* as the [REDACTED] address. However, the Department also submitted evidence that the father's employer identified a [REDACTED], Connecticut address as the father's residence.

In rebuttal, the Appellant submitted [REDACTED], 2019 and [REDACTED] 2019 *Connecticut Registration Certificates* issued by the Department of Motor Vehicles to the father for the father's two vehicles; these legal documents identify the father's *residence* at that time as in [REDACTED]. The Appellant testified that the father co-signed the Appellant's lease as the Appellant had bad credit.

The Department erred when it denied the Appellant's [REDACTED] 2019 SNAP application by administratively adding the father to the Appellant's SNAP household. The Department must reopen the Appellant's [REDACTED] 2019 SNAP application for a household of two: the Appellant and her minor child.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will reopen the Appellant's [REDACTED] 2019 SNAP application for a household of two: the Appellant and her minor child.
2. Within 14 calendar days of the date of this decision, or [REDACTED] [REDACTED] 2019, documentation of compliance with this order is due to the undersigned.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

Pc: Jennifer Miller, DSS-Waterbury
Peter Bucknall, DSS-Waterbury
Jamel Hilliard, DSS-Waterbury

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 Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

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 his 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.