

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 # 145508

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████.  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2019, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) denying her application for Supplemental Nutrition Assistance Program (“SNAP”) benefits because her household’s net income exceeded the limit for the program.

On ██████████ 2019, the Appellant requested an administrative hearing to appeal the Department’s denial of her application for 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, the Department recalculated the Appellant’s eligibility in a way that was more favorable to the Appellant, by discarding a pay used in the income average that was unusually high. After the recalculation the Appellant’s income still exceeded the net limit. A second NOA was issued on that date denying the application for the same reason as the ██████████, 2019 NOA.

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:

██████████, Appellant

Kristin Haggan, Department's representative  
James Hinckley, Hearing Officer

### **STATEMENT OF THE ISSUE**

1. The issue is whether the Department correctly denied the Appellant's application for SNAP benefits.

### **FINDINGS OF FACT**

1. The Appellant applied for SNAP on [REDACTED] 2019. (Ex. 1: Application form)
2. The Appellant lives in a household that includes herself, her spouse and her/their two daughters. (Ex. 1)
3. The Appellant is disabled. She receives a monthly Social Security Benefit of \$807.00. (Ex. 3: Social Security letter)
4. The Appellant has \$175.00 in recurring monthly out of pocket medical expenses for health insurance premiums, which she reported on the application. (Ex. 1)
5. The Appellant's spouse is employed by [REDACTED] (Hearing Record)
6. The Appellant submitted four of her spouse's weekly pay stubs to the Department, dated [REDACTED], [REDACTED] 2019, [REDACTED] 2019 and [REDACTED] 2019. The pay for [REDACTED] 2019 was missing. (Ex. 2: Pay Stubs)
7. The pays from [REDACTED] were in the following gross amounts: [REDACTED] 19 - \$661.00, [REDACTED]/19 - \$579.00, [REDACTED]/19 - \$933.00, [REDACTED]/19 - \$76.00.
8. The year-to-date (YTD) gross figure on the [REDACTED] 2019 pay was \$13,752.00. The YTD figure on the [REDACTED] 2019 pay was \$14,730.00. By subtracting the \$579.00 gross amount of the [REDACTED] 2019 pay from the \$14,730.00 YTD from the pay of the same date, then subtracting the \$13,752.00 YTD figure from the [REDACTED], 2019 pay, the Department determined that the gross amount of the missing [REDACTED] 2019 pay was \$399.00. (Hearing Summary, Ex. 2)
9. The Department did not use the \$76.00 [REDACTED], 2019 pay in calculating the Appellant's spouse's average wages, because the pay was deemed unrepresentative because it was "unusually low". (Ex. 10: Case Notes)
10. The Appellant receives child support for one of her daughters. The support payments from the absent parent are collected by the state IV-D agency, the

Department's Office of Child Support Services ("OCCS"), who then sends the support payments to the Appellant. (Hearing Record)

11. The Department's OCCS issued IV-D child support payments to the Appellant in amounts totaling the following: [REDACTED] 2019 - \$512.00, [REDACTED] 2019 - \$512.00, [REDACTED] 2019 - \$511.99. The average of the three months was \$512.00 per month. (Ex. 4: CCSES IV-D payment history, Hearing Summary)
12. The Appellant owns a home and has a monthly mortgage payment of \$1,202.71. As a homeowner, she is responsible for payment of all utilities. (Hearing Record)
13. On [REDACTED], 2019, the Department issued a NOA to the Appellant denying her SNAP application because her household's net income was more than the limit for the program. (Ex. 8: NOA)
14. On [REDACTED] 2019, the Department reconsidered the income calculation it used to determine the Appellant's SNAP eligibility. It recalculated the earnings average for the Appellant's husband, not only discarding the \$76.00 [REDACTED] 2019 pay from the average because it was "unusually low", but also the \$933.00 [REDACTED] 2019 pay because it was "unusually high". The new average used was: [REDACTED] 9/19 - \$661.00 + [REDACTED]/19 - \$399.00 + [REDACTED] 19 - \$579.00 = \$1,639.00, divided by three equals an average of \$546.33 per week. (Hearing Record)
15. Even though the Department's [REDACTED] 2019 recalculation resulted in a lower average earnings figure for the Appellant's husband, her household's total net income still exceeded the limit to qualify for SNAP. (Ex. 7: Computation Sheet)
16. On [REDACTED] 2019, the Department issued a NOA to the Appellant denying her SNAP application because her household's net income was more than the limit for the program. (Ex. 9: NOA)
17. The reason the Appellant's husband's pay for [REDACTED] 2019 was unusually high and his pay for [REDACTED] 2019 was unusually low, was because some money that was owed in one check was paid in the other. Even though each pay appears unrepresentative, an average of the two is an accurate reflection of what the Appellant's husband earned during the two week period. (Appellant's testimony)

### **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. In determining income eligibility for SNAP, all wages and salaries of an employee are counted as earned income. Social Security benefits and “support payments made directly to the household from nonhousehold members” are both counted as unearned income. Title 7 of the Code of Federal Regulations (“CFR”) Section 273.9(b)
3. **The Appellant’s Social Security benefit of \$807.00 per month is counted as unearned income for the Appellant’s household.**
4. **The Appellant’s child support payments of \$512.00 per month are counted as unearned income for the Appellant’s household.**
5. “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....” 7 CFR § 273.10(c)(1)(i)
6. **The anticipated earnings for the Appellant’s husband were not calculated in the most accurate way possible. Even though the Department acted in good faith when it discarded the pays from ██████████ 2019 and ██████████, 2019 as “unusually high” and “unusually low”, respectively, keeping the two pays in the average would have more accurately reflected the household’s earnings. The two pays, together, were representative of two weeks of income. The correct average should have been:**

██████/19	\$399.00	
██████/19	\$579.00	
██████/19	\$933.00	\$1,987.00, divided by 4 weeks, equals \$496.75 per week.
██████/19	<u>\$76.00</u>	
	<b>\$1,987.00</b>	

7. “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....” 7 CFR § 273.10(c)(2)
8. **The \$496.75 weekly average is converted to a monthly amount by multiplying by 4.3. \$496.75 x 4.3 = \$2,136.03.**
9. **The Appellant’s husband’s earnings of \$2,136.03 per month are counted as earned income for the Appellant’s household.**
12. 7 CFR § 273.9 (a) provides, in relevant part, as follows:

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)).

13. In the 48 contiguous States, the gross income eligibility standard for SNAP is 130 percent of the Federal income poverty level that applies to the 48 contiguous States. 7 CFR § 273.9(a)(1)(i)
14. **The Appellant's household contains a disabled member; therefore it is not required to meet the gross income eligibility standard for SNAP. If the household is categorically eligible pursuant to either 7 CFR § 273.2(j)(2) or § 273.2(j)(4) it is not required to meet the net income eligibility standard for SNAP. If it is not categorically eligible, it must meet the net income standard.**
12. States may, at their option, extend categorical eligibility to households "in which all members receive or are authorized to receive non-cash or in-kind services" from a program that is funded in part with State money counted for MOE purposes under Title IV-A, if the program was designed to further either purposes one and two, or three and four, of the TANF block grant. FNS must be informed of, or must approve, the TANF services that a State determines to confer categorical eligibility. 7 CFR § 273.2(j)(2)(ii)
13. Households in Connecticut with incomes below 185% of the federal poverty level ("FPL") qualify for the State's "Help for People in Need" program, which is funded with money counted for TANF MOE purposes and meets the requirements in 7 CFR § 273.2(j)(2)(ii). As such, the Department extends broad-based categorical eligibility for SNAP to all households that qualify for "Help for People in Need".
14. **For ██████ 2019 and ██████ 2019, 185% of the FPL for a household of four persons was \$3,870.00. For ██████ 2019, 185% of the FPL for a household of four persons increased to \$3,970.00. The Appellant's household's gross countable income of \$3,455.03 was below 185% of the FPL for all three months, thus her household was eligible for "Help for People in Need" and qualified for broad-based categorical eligibility for SNAP under the provisions of 7 CFR § 273.2(j)(2)(ii).**
15. **The Appellant's household is not required to meet the net income eligibility standard for SNAP because the household is categorically eligible.**

16. Paragraph (d) of 7 CFR § 273.9 provides for income deductions for the SNAP, and provides that only the expenses described within the paragraph are allowed as deductible expenses.

7 CFR § 273.9(d)(1) provides for the *standard deduction*.

**All SNAP households qualify for the standard deduction. The standard deduction for a household of four persons was \$174.00 for ██████████ 2019 and ██████████ 2019, and increased to \$178.00 for ██████████ 2019.**

7 CFR § 273.9(d)(2) provides for the *earned income deduction*, which is equal to “Twenty percent of gross earned income...”

**The Appellant’s gross monthly earned income is \$2,136.03. 20% of the gross amount is \$427.21. After deducting the 20%, the net earned income is \$1,708.82.**

7 CFR § 273.9(d)(3) provides for the *excess medical deduction*. Allowable medical expenses include health insurance policy premiums. Expenses incurred by a disabled member of the household which exceed \$35.00 are allowed as a deduction.

**The Appellant’s household qualifies for an excess medical deduction of \$140.00, equal to the \$175.00 she pays for health insurance premiums, minus \$35.00.**

**The Appellant’s household does not qualify for either of the other remaining deductions in paragraphs (d)(1) through (d)(5) of 7 CFR § 273.9, the *dependent care deduction* or *child support deduction*. The household’s income, net of the allowable deductions in paragraphs (d)(1) through (d)(5) of 7 CFR 273.9, is used in the next calculation.**

7 CFR § 273.9(d)(6)(ii) provides for the *excess shelter deduction*, and provides that the deduction equals the monthly shelter expenses in excess of 50 percent of the household’s income after all other deductions in paragraphs (d)(1) through (d)(5) of 7 CFR § 273.9 have been allowed.

**The Appellant’s household qualifies for three of the deductions in paragraphs (d)(1) through (d)(5) of 7 CFR § 273.9, the *standard deduction*, *earned income deduction* and *excess medical deduction*. After the allowable deductions, the Appellant’s countable gross income for ██████████ 2019 and ██████████ 2019 was \$2,713.82. For ██████████ 2019 it was \$2,709.82.**

**50% of \$2,713.82 is \$1,356.91 and 50% of \$2,709.82 is \$1,354.91. These amounts are used in the calculation of the *excess shelter deduction* provided for in 7 CFR § 273.9(d)(6)(ii).**

7 CFR § 273.9(d)(6) discusses shelter costs and provides that only certain expenses are allowable as shelter expenses, including rent, mortgage, property taxes, insurance on the structure, condo and association fees, and the actual costs of utilities.

7 CFR § 273.9(d)(6)(iii) provides for a *standard utility allowance* which may, at State option, be used in place of the actual cost of utilities in determining a household’s *excess shelter deduction* and which may be made available both to households that incur actual utility expenses and to those that receive assistance under the LIHEAA (Low Income Home Energy Assistance Act).

The Department applies a standard utility allowance (SUA), \$736.00 for [REDACTED] 2019 – [REDACTED] 2019, in place of the actual cost of utilities for qualifying households. The Appellant is responsible to pay all utilities for the home she owns, thus her household qualifies to have the SUA used in place of her actual utility costs in the calculation of the *excess shelter deduction*.

The Appellant's shelter expenses are \$1,938.71 (1,202.71 mortgage + \$736.00 SUA) for all months.

For [REDACTED] 2019 and [REDACTED] 2019, the Appellant's *excess shelter deduction* is \$581.80 (\$1,938.71 shelter expenses - \$1,356.91 [50% of income net of allowable deductions outlined in 7 CFR § 273.9(d)(1) through (d)(5)]). For [REDACTED] 2019 it is \$583.80. There is no deduction limit on the excess shelter deduction because the Appellant's household contains a disabled member.

For [REDACTED] 2019 and [REDACTED] 2019, the Appellant's *net income* after all deductions is \$2,132.02 (\$3,455.03 total gross income, minus \$174.00 *standard deduction*, minus \$427.21 *earned income deduction*, minus \$140.00 *excess medical deduction*, minus \$581.80 *excess shelter deduction*).

For [REDACTED] 2019, the Appellant's *net income* after all deductions is \$2,126.02 (\$3,455.03 total gross income, minus \$178.00 *standard deduction*, minus \$427.21 *earned income deduction*, minus \$140.00 *excess medical deduction*, minus \$583.80 *excess shelter deduction*).

7 CFR § 273.10(e)(2)(ii)(A) provides in relevant part that, "Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section...."

For [REDACTED] 2019 and [REDACTED] 2019, 30% of the Appellant's household's net monthly income is \$640.00 (\$2,132.02 multiplied by .3 [product is rounded up])

For [REDACTED] 2019 and [REDACTED] 2019, the maximum food stamp allotment (known as the "thrifty food plan") for a household of four persons is \$642.00.

For [REDACTED] 2019, 30% of the Appellant's household's net monthly income is \$638.00 (\$2,126.02 multiplied by .3 [product is rounded up])

For [REDACTED] 2019, the maximum food stamp allotment (known as the "thrifty food plan") for a household of four persons is \$646.00

For [REDACTED] 2019 and [REDACTED] 2019, the thrifty food plan for the Appellant's household size exceeded 30% of the Appellant's household's net monthly income by \$2.00. (\$642.00 exceeds \$640.00).

The Appellant's calculated benefit for a full month for [REDACTED] 2019 and [REDACTED] 2019 is \$2.00.

"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..." 7 CFR § 273.10(a)(1)(ii)

**For [REDACTED] 2019, the Appellant's SNAP eligibility must be prorated from [REDACTED], 2019, her application date, to the end of the month.**

7 CFR § 273.10(a)(1)(iii)(A) provides that the proration method for a State agency using a standard 30-day calendar is that the monthly SNAP allotment is equal to a full month's benefits multiplied by:  $(31 - \text{date of application}) / 30$ . "If the computation results in an allotment of less than \$10, then no issuance shall be made for the initial month."

- 1)  $31 - [REDACTED] = [REDACTED]$ .
- 2)  $[REDACTED] / 30 = [REDACTED]$ .
- 3)  $[REDACTED] \times \$2.00 = \$1.00$  (rounded).

**The Appellant's household is eligible for a SNAP benefit of \$1.00 for [REDACTED] 2019. Because the calculated benefit is less than \$10.00, no benefit is issued for the month of application.**

**The Appellant's household is eligible for a SNAP benefit of \$2.00 for [REDACTED] 2019**

**The Appellant's household is eligible for a SNAP benefit of \$8.00 for [REDACTED] 2019, and ongoing.**

### DISCUSSION

Recalculating the Appellant's husband's earnings made only a slight difference in her favor. She now qualifies for a \$2.00 SNAP benefit for [REDACTED] 2019 and an \$8.00 benefit for [REDACTED] and ongoing.

On the date the hearing was held, the Appellant was considering filing a new application for SNAP. If she did, more recent pay stubs will have been submitted for that application. If the Department is now in possession of more current earnings information that results in a higher benefit, the information should be processed as a change effective [REDACTED] 2019. If more current information results in a reduction in benefits, or no eligibility, the Appellant is still entitled to the benefits ordered by this decision. Had her original application been processed using the correct information she would have been certified for a 12 month period with no obligation to report changes except as required under simplified reporting. If her case was granted initially there would have been no need for her to file a new application. Therefore, new pay stubs submitted with a new application that reduce the benefit should not be considered a change report unless they were mandatory to report. Of further note to the Department, one of the simplified reporting requirements is to report when income exceeds 130% of the federal poverty level which is the gross income limit for SNAP. In this State, *in practical terms*, the gross income limit is 185% of the FPL, because of categorical eligibility granted to certain households.



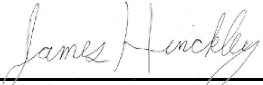
Because of this, it is possible for a household to be certified eligible for SNAP even when its income exceeds 130% of the FPL at time of certification. This is true in the Appellant's case. Her household gross income is \$3,455.03 and 130% of the FPL is \$2,790. In such instances there is no requirement to report income that exceeds 130% because the Department is already aware that HH income exceeds 130% of the FPL, so a continuation of the same circumstances does not represent a *change* that needs to be reported.

### **DECISION**

The Appellant's appeal is **GRANTED**.

### **ORDER**

1. The Department must reopen the Appellant's SNAP application effective [REDACTED] 2019 and recalculate her eligibility, including the two pays in the income average that were discarded as "unusually high" or "unusually low".
2. Compliance with this hearing decision shall be proof that the Appellant's benefits were recalculated. The proof must be sent directly to the undersigned Hearing Officer by no later than [REDACTED] 2019.

  
\_\_\_\_\_  
James Hinckley  
Hearing Officer

cc: Tyler Nardine  
Cheryl Stuart  
Kristin Haggan

### **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.