

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 # 146502

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant"), a Notice of Action ("NOA") increasing her Supplemental Nutritional Assistance Program ("SNAP") benefits effective ██████████ 2019 to \$16.00.

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, the Appellant requested to reschedule the hearing.

On ██████████ 2019, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, the Department failed to call the Appellant to the hearing room timely.

On [REDACTED] 2019, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED], 2019.

On [REDACTED], 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:

[REDACTED], Appellant

[REDACTED], Appellant's advocate, [REDACTED]

Ferris Clare, Department's Representative

Marci Ostroski, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant is a recipient of SNAP in an assistance unit consisting of two members, herself and her daughter. (Appellant's Testimony; Ex. 3: Notice of Action, [REDACTED]/19)
2. The Appellant is 49 years old (D.O.B. [REDACTED]/69) and she is disabled. The Appellant's daughter is 15 years old (D.O.B. [REDACTED]/04). (Ex. 1: Bendex Inquiry Details, Appellant's testimony)
3. The Appellant's receives Social Security Disability Income ("SSDI"). Her gross monthly benefit is \$999.00. The Appellant's daughter receives Social Security income. Her gross monthly benefit is \$358.00. (Ex. 1: Bendex Inquiry Details. Hearing Record; Appellant's Testimony)
4. The Appellant's 2018 Social Security 1099 tax statement reflects a deduction of her SSDI income labeled as a Treasury Benefits Payment Offset, Garnishment, or Tax Levy. The Appellant is unclear why this deduction was taken. The 2019 Social Security statements do not reflect any deductions. (Ex. A: 2018 Social Security Benefit statement, 2019 Social Security Benefit statement, Appellant's testimony)
5. The Appellant receives child support income. She consistently received \$160.00 per week for the three month period of [REDACTED] 2019 through [REDACTED] 2019. The Appellant's gross monthly child support income equals \$688.00 ($160 \times 4.3 = 688$). (Ex. 2: CCSES printout)

6. The Appellant's rental responsibility is \$700.00 per month and she is also responsible for utilities. She receives the Standard Utility Allowance ("SUA"). (Ex. 3: Notice of Action, [REDACTED]/19, Appellant's testimony, Department's testimony)
7. The Appellant utilizes medical marijuana and has requested the Department use her expenses as a medical deduction. The Department has not allowed the medical marijuana expenses as deductions. (Appellant's testimony, Department's testimony)
8. The Appellant's medical condition requires a therapeutic diet. The Appellant has requested that the Department use her special diet as a SNAP deduction. The Department has not allowed her special diet as a SNAP deduction. (Ex. B, Therapeutic Diet form, Appellant's testimony, Department's testimony)
9. The Appellant has no other reported out of pocket medical expenses, dependent care or child support deductions. (Ex. 4: Federal SNAP Income Test, Appellant's testimony, Department's testimony)
10. On [REDACTED] 2019, the Department issued a Notice of Action to the Appellant increasing the SNAP benefits from \$15.00 per month to \$16.00 per month for [REDACTED] 2019 and ongoing. (Ex. 3: Notice of Action [REDACTED]/19)
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 [REDACTED] 2019. Therefore, this decision was due not later than [REDACTED] 2019. The hearing, however, which was originally scheduled for [REDACTED], 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a 23-day delay. Because this 23-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2019, and is therefore timely. (Hearing Record)

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. "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)).
4. 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.
5. The Department correctly determined that the Appellant's SNAP assistance unit consists of two people.
6. 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 or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;.
7. The Appellant is considered an elderly or disabled member for purposes of the SNAP program, because she receives SSDI benefits.
8. Title 7 CFR § 273.9(b)(2)(ii) provides for counting pensions and social security benefits as unearned income.
9. UPM § 5050.13(A) provides Social Security 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 \$999.00 SSDI income and the Appellant's child's \$358.00 Social Security income is counted in determining the SNAP eligibility.
11. 7 CFR § 273.9(b)(2)(iii) provides unearned income shall include; Support or alimony payments made directly to the household from non-household members.
12. UPM § 5050.19(B)(3) provides Child support payments received from absent parents by members of a Food Stamps assistance unit who are not members of an AFDC unit are counted as unearned income in determining eligibility and calculating benefits.
13. The Department correctly included the Appellant's child support payments as unearned income.

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 child support income is based on a representative period of income from at least four consecutive weeks of child support and averaged by 4.3.
17. The Appellant's gross monthly child support income equals \$688.00 ($\$160.00 \times 4.3 = \688.00).
18. The Appellant's household's gross income was \$2045.00 ($\$999.00 + \$358.00 + \688.00) per month.
19. Title 7 CFR § 273.9(d)(1) provides for standard deductions.
20. Title 7 CFR § 273.9 (d)(3) provides for excess medical deduction as that portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled.
21. The Department correctly did not allow the Appellant's special diet as a medical deduction.
22. Title 7 CFR § 273.9 (d)(3)(B) provides for exclusions of excess medical deductions; The cost of any Schedule I controlled substance under The Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and any expenses associated with its use, are not deductible.
23. 21 U.S.C. § 812(b)(1), (c) provides marijuana is a Schedule I controlled substance that has no currently accepted medical use and cannot be prescribed for medicinal purposes.
24. The Department was correct to find that SNAP is a Federal program and must conform to Federal law regarding illegal substances. Therefore, marijuana and other Schedule I controlled substances are not "allowable medical expenses" under Federal law.

25. 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 \$167.00 per month; {effective October 1, 2019}
 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.

26. The Appellant's adjusted gross income equals \$1878.00 (\$1157.00 (\$2045.00 total unearned income) - \$167.00 (standard deduction) = \$1878.00)

27. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.

28. 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;

29. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.

30. 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.

31. The Standard Utility Allowance is \$736.00 effective October 1, 2019.

32. Title 7 CFR § 271.2 provides for the maximum shelter deduction.

33. 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, 2019, is \$569.00).

34. The Appellant's shelter costs totaled \$1436.00 (\$700.00 (rent) + \$736.00 (Standard Utility Allowance) = \$1436.00)

35. Title 7 CFR § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

36. 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.

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

SNAP BENEFIT CALCULATION	
INCOME	
Earned Income	\$0.00
Less 20 percent	-\$0.00
= Adjusted earned income	\$0.00
+ Unearned income	\$2045.00

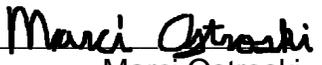
= Total income	<u>\$2045.00</u>
- Standard deduction	<u>-\$167.00</u>
- Medical expenses	\$0.00
-Dependent care expenses	\$0.00
=Adjusted gross income	\$1878.00
<u>SHELTER COSTS</u>	
Rent	\$700.00
+ SUA	<u>\$736.00</u>
Total shelter costs	\$1436.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1436.00
Less 50% of adjusted gross income	<u>-\$939.00</u>
= Total shelter hardship <small>(max \$552 if not disabled or elderly)</small>	\$497.00
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1878.00
Less shelter hardship	<u>-\$497.00</u>
Net Adjusted Income (NAI)	\$1381.00
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for two persons	\$355.00
Less 30% of NAI <small>(rounded up to nearest whole dollar)</small>	<u>\$414.30</u>
SNAP award	\$0.00

38. Title 7 CFR § 273.10 (e)(2)(ii)(c) provides that except during an initial month, all eligible one –person and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The minimum benefit is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar.
39. UPM § 6020.15 (C)(2)(a) provides that in all months except the initial month of eligibility, assistance units consisting of 1 or 2 members which have a calculated benefit amount of less than the minimum amount established by the Food and Nutrition Act of 2007, which is equal to 8 percent of the cost of the thrifty food plan for a household containing one member, rounded to the nearest whole dollar increment.
40. The Thrifty Food Plan for one person is \$194.00. Eight percent of \$192 is \$15.52 ($\$194.00 \times .08$). This figure rounded to the nearest whole dollar is \$16.00.

41. The Department correctly determined the Appellant's [REDACTED] 2019 benefit equals \$16.00

DECISION

The Appellant's appeal is **DENIED**



Marci Ostroski
Hearing Officer

CC: Rachel Anderson, Cheryl Stuart, Lisa Wells, Operations Managers, New Haven Regional Office
Ferris Clare, Fair Hearing Liaison, New Haven 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.