

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 # ██████████  
Hearing Request # 146579

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the "Department") issued a notice to ██████████ (the "Appellant") advising her that she was eligible for \$52 in Supplemental Nutritional Assistance Program ("SNAP") benefits per month effective ██████████ 2019.

On ██████████, 2019, the Appellant requested an administrative hearing because she disagrees with the amount of the 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  
Pablo Castellano, Interpreter  
Taneisha Hayes, Fair Hearing Liaison, DSS, Hartford  
Maureen Foley-Roy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly determined that the Appellant's household is eligible for \$52 in SNAP benefits per month.

### **FINDINGS OF FACT**

1. The Appellant household consists of herself and two minor children. (Appellant's testimony)
2. The Appellant is employed and is paid biweekly. One of her children is disabled and receives a Supplemental Security Benefit ("SSI") each month. The SSI benefit and her earnings are the only source of income for her family.(Appellant's testimony)
3. On ██████ 2019, the Appellant submitted her redetermination document to the Department. She reported her earnings and income from SSI. (Exhibit 10: Redetermination document signed ██████ 2019)
4. The Appellant submitted two paystubs with her redetermination document; her ██████ 2019 paystub for the pay period from ██████, 2019 through ██████ 2019 in the gross amount of \$1,202.04 and her ██████ 2019 paystub for the pay period from ██████ 2019 through ██████, 2019 in the gross amount of \$894.85. (Exhibit 11: Pay stubs).
5. The Appellant's daughter's SSI benefit amount fluctuates based on the Appellant's earnings. In addition, the SSI administration claims that the Appellant's daughter was overpaid in SSI benefits in the past and is withholding \$77.10 each month to repay the overpayment. (Hearing Summary, Appellant's testimony and Exhibit 5: Unearned Income details)
6. The Appellant's daughter's gross SSI benefit for ██████ of 2019 was \$513.23. (Exhibit 5c: Unearned Income Details for ██████ 2019)
7. In calculating the SNAP benefit, the Department considers the amount of SSI benefit that the Appellant actually receives. It does not count monies withheld due to overpayment. (Department representative's testimony)
8. The Department excluded \$77.10 of the Appellant's daughter's SSI benefit. When calculating the SNAP benefit for ██████ of 2019, the Department counted an SSI benefit of \$436.13. (\$513.23 -\$77.10) (Exhibit 5c, Exhibit 6d: SNAP computation sheet corresponding to ██████/19 notice and Department representative's testimony)
9. The Appellant and her children receive medical assistance through HUSKY. The family does not pay any out of pocket medical expenses. The Appellant does not pay child support for any children living outside the home. (Appellant's testimony)

10. The Appellant pays \$50 monthly for day care for her daughter. She has never reported the day care expenses to the Department, prior to today's hearing. (Appellant's testimony)
11. The Appellant pays \$850 per month in rent and she is responsible for paying her own heating and cooling costs. (Appellant's testimony and Exhibit 10)
12. The Department issued \$82 in SNAP benefits to the Appellant in [REDACTED] and [REDACTED] of 2019, \$92 for [REDACTED] of 2019, \$80 for [REDACTED] 2019 and \$52 for [REDACTED] 2019. (Exhibit 8: Benefit Issuance Search)
13. On [REDACTED], 2019, the Department issued a notice to the Appellant advising her that her household would be eligible for \$52 in SNAP benefits each month effective [REDACTED] of 2019. (Exhibit 4: Notice of Action dated [REDACTED] 2019)
14. 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. Thus, this decision is due not later than [REDACTED] 2019 and is therefore 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. 7 CFR § 273.10(c)(3)(i) provides for income averaging and states that income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households. When averaging income, the State agency shall use the household's anticipation of monthly income fluctuations over the certification period. An average must be recalculated at recertification and in response to changes in income, in accordance with § 273.12(c) and the State agency shall inform the household of the amount of income used to calculate the allotment. Conversion of income received weekly or biweekly in accordance with paragraph (c)(2) of this section does not constitute averaging.
3. The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
4. UPM § 5025.05 B 2 provides that if income is received other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount.

5. UPM § 5025.05 B 2 b provides that if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount. (Emphasis added)

**The Department correctly determined that the Appellant's earned income was \$2254.15 per month. [ $\$1202.04 + \$894.85 = \$2096.89/4 = \$524.22 \times 4.33$ ]**

6. Title 7 CFR § 273.9(b)(2)(ii) provides for counting pensions and social security benefits as unearned income.

UPM § 5050.13(A)(6) provides that benefits received from Social Security by any member of a Food Stamps unit is counted in the calculation of eligibility and benefits for the entire unit.

**The Department was correct when it determined that income received from SSI is counted in calculating the SNAP benefit.**

7. Title 7 CFR § 273.9(b)(5)(i) provides that income shall not include moneys withheld from an assistance payment, earned income, or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under paragraph (c) of this section.
8. UPM § 5050.66 A 2 provides for reductions in income regarding due to recovery of overpayments and benefit reductions and states that money withheld as recoupment of an overpayment, which occurred due to a Non-IPV situation or administrative error, is excluded as income when calculating SNAP eligibility and benefits.

**The Department was correct when it did not count the amount of SSI that was being withheld due to overpayment in calculating the Appellant's SNAP benefit.**

**The Department correctly determined that the amount of the Appellant's daughter's countable SSI benefit was \$436.13 for [REDACTED] of 2019. (\$513.23 - \$77.10)**

9. Title 7 C.F.R. § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.

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 10-1-19
  3. a deduction for unearned income to be used to fulfill a bona-fide 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.

**The Department correctly applied a 20% reduction of \$450.83 to the Appellant's earnings.**

**The Department correctly determined that the Appellant's total countable income was \$2239.45. ( $\$2254.15 - \$450.83[20\%] + \$450.83$ )**

**The Department correctly applied the \$167 standard deduction to the income of \$2239.45.**

**The Department correctly determined that the Appellant's adjusted gross income was \$2072.45.**

**The Department correctly determined that the Appellant was not entitled to a dependent care expense deduction because she had never reported a dependent care expense to the Department.**

10. Title 7 C.F.R. § 273.9(d)(6)(ii) provides for an excess shelter deduction.

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;
- b. taxes, state and local assessments, and insurance on real property;
- c. the entire amount paid as a condominium fee;

11. Title 7 C.F.R. § 273.9(d)(6)(iii) provides for the standard utility allowances.

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.

12. Title 7 C.F.R. § 273.9(d)(6)(iii)(B) requires states to review the cost of heating and cooling homes and to update the standard utility allowance based on such costs.

**The Department correctly determined that the Appellant was entitled to the standard utility allowance of \$736 (effective [REDACTED] of 2019).**

**The Department correctly determined the Appellant's shelter costs were \$1586. (\$850 rent + \$736 SUA)**

**The Department correctly determined the Appellant's shelter hardship was \$549.78. (\$1586 shelter costs - \$1036.22, fifty percent of adjusted gross income)**

**The Department correctly determined the Appellant's net adjusted income was \$1522.67. (\$2072.45 adjusted gross income - \$549.78 shelter hardship)**

13. Title 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

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.

14. The Appellant's SNAP benefits were computed as follows:

**SNAP BENEFIT CALCULATION**

<b><u>INCOME</u></b>	
Earned Income	\$2254.15
Less 20%	-\$450.83
<b>Total</b>	<b><u>\$1803.32</u></b>
Plus Unearned Income SSI	\$436.13
<b>Total</b>	<b>\$2239.45</b>
Less standard deduction	<u>\$167</u>
<b>Adjusted gross income</b>	<b>\$2072.45</b>
<b><u>SHELTER COSTS</u></b>	
Rent	\$850
SUA	<u>\$736</u>
<b>Total shelter costs</b>	<b>\$1586</b>
<b><u>SHELTER HARDSHIP</u></b>	
Shelter costs	\$1586

Less 50% of adjusted gross income	<u>-\$1036.22</u>
<b>Total shelter hardship</b>	\$549.78
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$2072.45
Less shelter hardship	<u>-\$549.78</u>
<b>Net Adjusted Income (NAI)</b>	\$1522.67
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 3 Persons	\$509
Less 30% of NAI	<u>-\$457</u>
<b>SNAP award</b>	\$52

The Department correctly calculated the Appellant's SNAP benefit amount of \$52 per month.

### DISCUSSION

The Appellant's SNAP benefits are based on her earnings and her daughter's SSI benefit. The SSI benefit fluctuates monthly and the benefit amount is reported to the Department by a computer interface, resulting in a fluctuating SNAP benefit. The Appellant claims that her earnings also fluctuate and she was under the impression that the earnings information was provided to the Department as well as the SSI benefit amount but that is not the case. As of the day of the hearing, the Appellant stated that she could provide updated earnings information which could affect her benefit going forward. It would also benefit her to verify her child care expense. However, the \$52 benefit issued by the Department for [REDACTED] was correct based upon the information provided to the Department at that time.

### DECISION

The Appellant's appeal is DENIED.



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Maureen Foley-Roy  
Hearing Officer

Cc: Jess Carroll, Musa Mohamud, Judy Williams, Operations Managers, DSS, Hartford  
Taneisha Hayes, Fair Hearing Liaison, DSS, Hartford



### **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.