

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 # 147194

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") issuing his Supplemental Nutritional Assistance Program ("SNAP") benefits in the amount of \$406.00 effective ██████████ 2019.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the amount of his 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
Rachida Natoubi, Interpreter, ITI Translates
Ermelindo Cardona, Department's Representative

Marci Ostroski, Hearing Officer

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

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant has been a recipient of SNAP in an assistance unit consisting of four members, himself, his spouse, and their two children. (Appellant's Testimony; Ex. 2: Notice of Action, [REDACTED] 19)
2. The Appellant is [REDACTED] years old (D.O.B. [REDACTED] 54). (Appellant's testimony)
3. The Appellant receives Temporary Family Assistance ("TFA") income in the amount of \$240.18 and a pension in the amount of \$253.20 per month. (Appellant's testimony, Department's testimony, Ex. 2: Notice of Action, [REDACTED] /19)
4. The Appellant pays \$101.00 per month in rent and is responsible to pay for utilities. (Appellant's testimony)
5. The Appellant's son [REDACTED] (the "son") is [REDACTED] years old (D.O.B. [REDACTED] /97) and is disabled. The son receives Supplemental Security Income ("SSI") in the amount of \$771.00 per month. (Ex. 2: Notice of Action, [REDACTED] /19, Appellant's testimony)
6. Because of his disabilities, the son's food is purchased and prepared separately from the rest of the household. (Appellant's testimony)
7. On [REDACTED] 2019, the Department conducted a case review and reinstated the Appellant's TFA benefit of \$240.18. The Appellant's SNAP benefit reduced from \$514.00 to \$406.00 per month due to the addition of the TFA income. (Hearing Summary, Ex. 2: Notice of Action, [REDACTED] /19)
8. On [REDACTED] 2019, the Department issued a Notice of Action to the Appellant granting the SNAP benefits in the amount of \$406.00 for [REDACTED] 2019. (Ex. 2: Notice of Action, [REDACTED] /19)
9. On [REDACTED] 2019, the Appellant went to the Department's office to report changes for his SNAP benefits. The Appellant reported that his son has a special diet and he purchases and prepares his meals separately and that he would like his son to have separate SNAP benefits from the household. The Appellant reported that he had guardianship of his son but did not have any documentation with him and left without filing a SNAP application for the son. (Ex. 1: Case Notes, Appellant's testimony)

10. As of the date of the hearing neither the Appellant's son, nor the Appellant on behalf of his son have applied for SNAP benefits. (Appellant'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 [REDACTED], 2019. Therefore, this decision is due not later than [REDACTED] 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 in part provides for the definition of *elderly or disabled member* to include individuals who is 60 years of age or older.
4. The Appellant is considered an elderly member for purposes of the SNAP program, because he is over the age of 60.
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. UPM 2020.15(B) provides certain types of individuals may choose to be included in the same assistance unit with others, or may choose to be considered a separate assistance unit. The following types of individuals have the separate assistance unit option: Adult children living with their parents if they purchase and prepare food separately.
 8. The Department incorrectly determined that the Appellant's SNAP assistance unit consists of four people. The Appellant's son has the option to be a separate assistance unit as an adult child, over the age of 21, whose food is purchased and prepared separately.
 9. CFR 273.12(c)(1)(i) provides for State agency action on changes. The State agency shall take prompt action on all changes to determine if the change affects the household's eligibility or allotment. For changes which result in an increase in a household's benefits, other than changes described in paragraph (c)(1)(ii) of this section, the State agency shall make the change effective no later than the first allotment issued 10 days after the date the change was reported to the State agency.
 10. The Appellant reported that his son did not purchase and prepare foods with the household on [REDACTED] 2019. The Department was required to take action on that report effective [REDACTED] 2019.
 11. UPM § 1505.10(B) (1) provides that individuals who desire to obtain aid must file a formal request for assistance. (2) The formal request must be made in writing on the application form. (5) Telephone contacts or other requests for aid which are not written, do not contain the required information, or are not made on the prescribed application form are considered inquiries and do not constitute an application.
 12. Neither the Appellant's son, nor the Appellant on behalf of the son, filed a formal request for assistance on an application form.
 13. The Department incorrectly calculated the Appellant's [REDACTED] 2019 and ongoing SNAP benefits as it incorrectly determined household composition.

DISCUSSION

After reviewing the evidence and testimony presented, I find the Department erred in its calculation of SNAP benefits for the month of [REDACTED] 2019 and ongoing. The Appellant reported in [REDACTED] of 2019 that his son is not a member of the SNAP household as his food is purchased and prepared separately. The Department found that the Appellant's son was not eligible to receive separate SNAP under UPM

2020.15(D) as he is not elderly. While this is true, the Appellant's son is eligible to receive separate SNAP under 2020.15 (B) as an adult child over the age of 21 who purchases and prepares food separately.

The Department had sufficient information to remove the son from the Appellant's household effective [REDACTED] 2019. The Appellant, however, did not submit a separate valid application for his son or the documentation that he has guardianship. The Department was correct to not screen the Appellant's son for the separate SNAP benefit as of the date of the hearing. The Appellant's son or the Appellant on behalf of his son can apply in the future for SNAP benefits with the Department now that he has been removed from the Appellant's household.

DECISION

The Appellant's appeal is **REMANDED**

ORDER

1. The Department will remove the Appellant's son from the SNAP household effective [REDACTED] 2019.
2. The Department will recalculate the SNAP benefit for the months of [REDACTED] and ongoing based on the household of three.
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
Marci Ostroski
Hearing Officer

CC: Rachel Anderson, Cheryl Stuart, Lisa Wells, Operations Managers, New Haven Regional Office
Ermelindo Cardona, 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.