

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 # 147897

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████, (the "Appellant"); discontinuing her Supplemental Nutrition Assistance Program ("SNAP") benefits effective ██████████ 2019.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department's decision to discontinue 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 a continuance which OLCRAH granted.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2019

On ██████████ accordance with Connecticut General Statutes § 17b-60, 17b-61 and § 4-176e to 4-184, inclusive, the Department held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant, via telephone
Jorge Alvarado, Department's Representative
Thomas Monahan, Hearing Officer

The record was held open for additional information from the Department. On ██████████
██████████, 2019, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's SNAP benefits.

FINDINGS OF FACT

1. The Appellant received SNAP benefits for herself and her daughter at ██████████
██████████. (Hearing record)
2. In ██████████, the Department received a referral to investigate how the Appellant is paying her bills. She is the owner of ██████████.
(Exhibit 1: Case note, ██████████)
3. The Department found that the Appellant's spouse, ██████████, has his license and registration through the Department of Motor Vehicles at the Appellant's ██████████ address. (Exhibit 4: DMV address record)
4. The Appellant's spouse receives gross monthly Social Security Disability of \$1,440.50 at the Appellant's address. He is on Medicare B and \$135.00 is deducted from his monthly social security disability benefit. (Hearing record, Exhibit 5: SNAP federal income test)
5. The Appellant receives monthly gross Social Security Disability of \$1,264.00. (Hearing record)
6. The Appellant receives a gross monthly pension of \$307.73. (Hearing record)
7. The Appellant's spouse spends a few nights a week at the Appellant's address and sometimes eats with the Appellant and their daughter. The other nights he stays with his sisters in Willimantic. (Appellant's testimony)
8. The Appellant uses ██████████ his mailing address for the Department and does not list a residence address. He is on a Husky C spenddown. (Exhibit 6: Department's email)

9. The Appellant's monthly mortgage and taxes total \$1,281.72 per month. (Appellant's testimony)
10. The Appellant has borrowed money to help pay her monthly mortgage. (Appellant's testimony)
11. The Department allowed for the Standard Utility Allowance when calculating the Appellant's eligibility for SNAP benefits. (Exhibit 3: SNAP computation sheet)
12. On [REDACTED], 2019, the Department sent the Appellant a notice of action closing her SNAP benefits effective [REDACTED] 2019, because the monthly income for a household of three exceeded the applied income limit. (Exhibit 2: Notice of Action, Exhibit 3: SNAP computation sheet)
13. 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]. Therefore, this decision is due not later than [REDACTED] [REDACTED].

"However, the hearing record remained open an additional 15 days per the Appellant's request to reschedule and for additional information. Because of this 15 day delay this decision is not due until [REDACTED], 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 in accordance with federal law.
2. Title 7 Code of Federal Regulations ("CFR") § 273.1 provides for household composition

Uniform Policy Manual provides ("UPM") § 2020.10 provides that the assistance unit must include certain individuals who are in the home: a child under 18 under the parental control of a member of the assistance unit, a spouse of a member of the assistance unit including any who presents himself or herself as a spouse, children ages 18 through 21 living with their parents.

3. The Department correctly determined that the household's assistance unit must include the Appellant, her child, and the child's father.
4. UPM §§ 5025.05(A)(1) provides for converting income to monthly amounts and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.
5. Title 7 of the Code of Federal Regulations ("CFR") § 273.9(b) (2) (ii) provides for counting social security benefits as unearned income.

Uniform Policy Manual § 5050.13(A)(1) provides that 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.

6. UPM § 5050.09 provides that payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.
7. The Department correctly determined that the Appellant's monthly gross unearned income is \$3,012.73 (\$1,264.00 + \$307.73 + \$1,440.50).
8. Regulation provides that participation in the Program shall be limited to those households whose income incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households that contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households that 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 that 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 levels established in Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2). 7CFR §273.9(a)
9. Regulation provides that income eligibility for the SNAP is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for Temporary Family Assistance ("TFA") (including diversion assistance), Aid to Families with Dependent Children ("AFDC"), Aid to the Aged, Blind or Disabled ("AABD"), General Assistance ("GA"), State Administered General Assistance "(SAGA)", refugee assistance or Supplemental Security Income ("SSI").

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
 - a. include one or more persons who are elderly or disabled; or
 - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the

Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:

- a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.
- b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.

B. Applied Income Eligibility Test

1. Income eligibility is determined on the basis of the assistance unit's total monthly applied income:
 - a. including those units which are not subjected to the Gross Income Eligibility Test; and
 - b. excluding those units which are considered categorically eligible for FS benefits.
2. The unit's total monthly applied income is compared to an amount equivalent to the Food Stamp Applied Income Limit for the respective unit size:
 - a. If the total applied income exceeds the FSAIL, the unit is not eligible for Food Stamps benefits;
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.

10. The Department correctly used the applied income test.

11. 7. Title 7 CFR § 273.9(d)(1)&(3) provides for standard deductions and excess medical deductions.

Regulation provides that members of the assistance unit who are elderly or disabled are allowed medical expenses as deductions. An elderly or disabled assistance unit member who provides an estimate of the medical expenses he or she expects to incur over a certification period that does not exceed twelve months can choose to have medical expenses averaged over the certification period.

The incurred or anticipated medical expenses which may be deducted are limited to the following:

- a. medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;
- b. hospitalization or outpatient treatment, nursing care, and care in a long term care facility recognized by the State. These expenses include payments made by the assistance unit to a facility on behalf of someone who was an assistance unit member at the time of admission to facility;

- c. prescription and nonprescription medications when prescribed or recommended as treatment for a condition by a licensed practitioner authorized under State law; and the cost of postage for purchasing prescription medications by mail;
- d. purchase or rental of prescribed medical supplies and sick room equipment;
- e. premiums for health and hospitalization insurance except for those which are written to provide lump-sum settlements in the event of death or dismemberment or to protect and maintain income;
- f. premiums for Medicare under Title XVIII of the Social Security Act;
- g. medical expenses paid by the applicant or recipient under Medicaid spend-down or cost-sharing requirements;
- h. dentures, hearing aids, and prosthetics;
- i. securing and maintaining a seeing-eye or hearing dog including the cost of dog food and veterinarian bills;
- j. eyeglasses prescribed by a physician skilled in eye disease or by an optometrist;
- k. reasonable cost for transportation and lodging necessary to obtain medical treatment or services;

UPM § 5035.15(E)

- 12. The Appellant is entitled to a monthly medical expense of \$135.00 for her spouse's Medicare premium.
- 13. 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; [REDACTED] }
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.

14. The Appellant's adjusted gross income is \$2,710.23 (3,012.23 - \$167.00- \$135.00)

15. Title 7 CFR § 273.9(d)(6)(ii)(iii) provides for excess shelter deduction and utility allowances.

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;
- d. utility costs including the following:
 - (1) heat;
 - (2) cooking fuel;
 - (3) electricity;
 - (4) water;

- (5) sewer charges;
 - (6) garbage collection;
 - (7) basic monthly charge including taxes for a telephone;
 - (8) installation charges for a utility.
16. 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 totally or partially by the unit.
17. The utility standard effective [REDACTED] is \$736.00
18. The Appellant's shelter costs are \$2,017.72.00. (\$1,281.72 mortgage + \$736.00 utility standard)
19. Title 7 CFR § 271.2 provides for the maximum shelter deduction.
20. Title 7 CFR § 273.9(d)(6)(ii) provides for 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;
21. Fifty percent of the Appellant's Adjusted Gross Income is \$1,355.12 ($\$2,710.23 \text{ adj gross income} \times .50$).
22. The Appellant's shelter hardship is 662.60 ($\$2,017.72 \text{ shelter costs} - \$1,355.12 [50\% \text{ of adj. gross income}] = \662.60).
23. The Appellant's applied income is \$2,047.63 ($2,710.23 \text{ adj gross} - \$662.60 \text{ shelter hardship}$).
24. Title 7 CFR § 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.

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

SNAP BENEFIT CALCULATION	
INCOME	
Unearned Income	<u>\$3,012.23</u>
Less standard deduction	<u>-\$160.00</u>
Less medical expense	<u>-\$135.00</u>
Adjusted gross income	\$2,710.23
SHELTER COSTS	
Mortgage, taxes	\$1,281.72
SUA	<u>+\$736.00</u>
Total shelter costs	\$2,017.72
SHELTER HARDSHIP	
Shelter costs	\$2,017.72
Less 50% of adjusted gross income $2,710.23 / 2$	<u>-\$1,355.12</u>
Total shelter hardship	\$662.60
ADJUSTED NET INCOME	
Adjusted gross income	\$2,710.23
Less shelter hardship	<u>\$662.60</u>
Net Adjusted Income (NAI)	\$2,047.63
BENEFIT CALCULATION	
Thrifty Food Plan for 3 Person	\$509.00
Less 30% of NAI	<u>-\$615.00</u>
SNAP award	\$0.00

26. The Department correctly found the Appellant ineligible for SNAP due to excess income.

27. 7 CFR § 273.13 provides for Notice of adverse actions. Prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken.

UPM § 1555.25 provides that assistance units incurring a change in circumstances are notified of actions taken by the Department which affect eligibility or benefit level.

UPM § 1555.35 provides that changes that cause ineligibility are taken into consideration: no earlier than the month of the change; and no later than the month following the month in which the notice of adverse action would expire if the change had been timely reported.

28. The Department correctly sent the Appellant an adverse action notice regarding the discontinuance of his SNAP benefits.

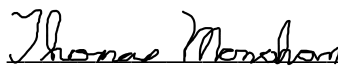
29. The Department correctly closed the Appellant's SNAP benefits effective [REDACTED] 2019.

DISCUSSION

The Appellant's testimony and the Department's evidence indicate that the Appellant's spouse is a member of the SNAP household. The Appellant's spouse often eats with the Appellant and uses [REDACTED] as his primary address. The Appellant stated that she and her husband are separated but acknowledged that he stays at the home sometimes. Her spouse is also on a Husky C spenddown at the Appellant's address.

DECISION

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



Thomas Monahan
Hearing Officer

C: Tonya Cook-Bedford, Operations Manager, Willimantic Regional Office
Jorge Alvarado, Hearing Liaison

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 06105-3725. 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 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.