

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

██████████
Request # 148175

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") denying her application for Supplemental Nutrition Assistance Program ("SNAP") benefits because her income is more than the program limit.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the denial 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, 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
Javier Rivera, Department's Representative
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant not eligible for the SNAP benefit.

FINDINGS OF FACT

1. The Appellant's household consists of five members which include the Appellant, her spouse, and three children ages nine, eight, and two. (Appellant's Testimony)
2. The Appellant is 29 and her spouse is 32 years old. No one in the Appellant's household is disabled or over 60 years old. (Appellant's Testimony)
3. The Appellant's spouse is employed by [REDACTED]. He supplied the Department with the following two biweekly paystubs as proof of his monthly income:

DATE	GROSS AMOUNT
[REDACTED] 19	\$2,212.54
[REDACTED] /19	\$1,950.58

(Exhibit 6: Paystubs; Hearing Summary; Department's Testimony)

4. The spouse's earnings include overtime hours which are worked as often as possible. (Appellant's Testimony)
5. The spouse's monthly gross income is \$4,475.35 [(\$2,212.54 + \$1,950.58)/2 x 2.15 = \$4,475.35]. (Hearing Summary, Department's Testimony)
6. The Department uses the CCSES, the child support database, to verify child support received by an individual. The Appellant received the following child support payments:

MONTH	AMOUNT
[REDACTED] 2019	\$580.00
[REDACTED] 2019	\$682.44
[REDACTED] 2019	\$587.56

(Department's Testimony)

7. The Appellant receives \$140.00 weekly in child support for her nine-year-old child and the payments fluctuate each month. She does not recall how much she received

in previous months but does not dispute the Department's testimony regarding the monthly child support. (Appellant's Testimony)

8. The Appellant's rent is \$1,600.00 monthly. She pays for electric heat. (Appellant's Testimony)
9. The Appellant's spouse pays \$288.00 biweekly in child support for his eight-year-old child who is part of the Appellant's household. (Exhibit 6; Appellant's Testimony)
10. The Appellant does not have any dependent care expenses. (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 request for a hearing. The Appellant requested an administrative hearing on [REDACTED], 2019. Therefore this decision is due not later than [REDACTED] 2019.

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 ("C.F.R.") § 273.9(a) provides that 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 SNAP. 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 SNAP. 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 as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).
3. The Appellant's household does not contain an elderly or disabled member. The Department correctly determined the Appellant must meet both the gross and net income eligibility standards.
4. Title 7 C.F.R. § 273.10(c)(1)(i) provides that for the purpose of determining the household's eligibility and level of benefits, the state agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For

example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by § 273.12.

5. Title 7 C.F.R. § 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.
6. Title 7 C.F.R. § 273.9(b)(1)(i) provides that earned income shall include all wages and salaries of an employee.

“The department's uniform policy manual is the equivalent of a 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)).

Uniform Policy Manual (“UPM”) § 5005(A) provides that the Department counts the assistance unit's available income, and that income is considered available if it is:

1. received directly by the assistance unit,
 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
 3. deemed by the Department to benefit the assistance unit.
7. The Department correctly included the spouse's earnings when it calculated eligibility for the SNAP benefits.
 8. Title 7 C.F.R. § 273.9(b)(2)(iii) provides in part that unearned income shall include, but not be limited to support or alimony payments made directly to the household from nonhousehold members.

UPM § 5050.19(B)(3) provides that child support payments are counted as unearned income in determining eligibility and calculating benefits.

9. The Department correctly included the Appellant's child support benefits in its calculation for eligibility for SNAP benefits.
10. Title 7 C.F.R. § 273.10(c)(1)(ii) provides in part that 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.
11. Title 7 C.F.R. § 273.10(c)(2)(i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received unless the income is averaged. 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, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period.

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.
12. The Department correctly determined the spouse's earnings equal \$4,475.35 $[(\$2,212.54 + \$1,950.58)/2 \times 2.15 = \$4,475.35]$ monthly.
 13. The Department correctly determined the child support income equals \$616.66 $[(\$580.00 + \$682.44 + \$587.56)/3 = \$616.16]$.
 14. The Department correctly determined the Appellant's countable gross monthly household income equals \$5,092.01 $(\$4,475.35 + \$616.66 = \$5,092.01)$
 15. UPM § 5520.40 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 TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance, or 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.
16. Title 7 C.F.R. § 273.2(j)(2)(ii) provides that the State agency may, at its 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 meets certain requirements described in the federal regulations. The program must meet certain funding requirements and must have been designed to further either purpose one and two, or three and four of the TANF block grant.
 17. On June 19, 2009, the Department implemented SNAP changes referred to as Expanded Categorical Eligibility ("ECE"). Effective July 1, 2009, the gross income limit for the SNAP increased to 185% of the Federal Poverty Level for SNAP households that do not contain an elderly or disabled household member.
 18. Effective [REDACTED] 2019, 185% of the FPL for ECE for a five-person household is \$4,652.00 per month.
 19. The Appellant's \$5,092.01 monthly income exceeds the \$4,652.00 Gross Income Limit for a household of five persons.
 20. The Department was correct when it denied the Appellant's application for SNAP benefits because her income exceeds the allowable limit.

DECISION

The Appellant's appeal is DENIED.


 Carla Hardy
 Hearing Officer

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.