

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████, 2020
Signature Confirmation

Client ID # ██████████
Request # 149316

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 his Supplemental Nutritional Assistance Program (“SNAP”) benefits for ██████████, 2019 in the amount of \$160.00.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the amount of 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’s authorized representative, ██████████, (the “AREP”) requested to reschedule the administrative hearing.

On ██████████ 2019, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2020.

On [REDACTED] 2020, 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 mother and AREP

Noel Lord, Department's Representative, participated by telephone

Robin Carlson, Department's Observer

Marci Ostroski, Hearing Officer

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

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 as an assistance unit of himself as one member. (Hearing record; Ex. 6: Federal SNAP Income Test; Ex. 1: Periodic Review Form)
2. The Appellant has a rental responsibility of \$200.00 per month. (AREP's testimony, Ex. 6: Federal SNAP Income Test)
3. The Appellant does not have any dependent care or out of pocket medical expense deductions. (AREP's testimony)
4. The Appellant is disabled and receives Supplemental Security Income ("SSI") from the Social Security Administration ("SSA"). (Ex. 10: SOLQ-1 Results Details, AREP's testimony)
5. The Appellant is employed by [REDACTED], his earnings fluctuate. (AREP's testimony, Ex. 6: Federal SNAP Income Test)
6. The Appellant receives a [REDACTED] in the amount of 366.81 Bulgarian Lev. The exchange rate from the Bulgarian Lev to the US dollar fluctuates daily. (Ex. 7: Pension statement, AREP's testimony)
7. On [REDACTED], 2019, the Department mailed a Periodic Report Form ("PRF") to the Appellant which listed his wages from [REDACTED] as \$40.98, his SSI as \$510.99, and his pension as \$214.34 in US dollars. The income amounts had been previously verified by the Department at the last redetermination or application. The PRF asked the Appellant to describe any changes in earned and unearned income.

The Appellant checked the box “I read this form and made no changes”. (Ex. 2: PRF, ██████/19, Department’s testimony)

8. The Appellant’s mother reports his earnings to the Social Security Administration every month. She was under the assumption that the Department of Social Services received the reported income changes directly and she did not report them to DSS. (AREP’s testimony)
9. The Department does not receive the Appellant’s earnings directly from ██████ ██████ or from the Social Security Administration. The Department only updates earnings based on what the Appellant reports directly to them. (Department’s testimony)
10. On ██████ 2019, the Department processed the Appellant’s PRF and made no changes to his eligibility. The Department sent the Appellant a notice of action which stated that based on his income of \$214.34 in pension, \$40.98 in weekly wages, and \$510.99 in SSI he would continue to receive \$156.00 in SNAP benefits. The notice stated the Appellant’s “SNAP period of eligibility is ██████/19 through ██████/20...you must call the Benefit Center to report the following changes to us...if your household’s total monthly income is more than \$1316.00.” (Hearing Summary, Ex. 3: NOA, ██████/19)
11. On ██████ 2019, the Department sent a notice to the Appellant increasing the SNAP benefits beginning in the month of ██████ 2019, to \$160.00 and granting him a one-time benefit of \$20.01 from the energy assistance program. Because of the energy assistance program benefit, the Department gave the Appellant the Standard Utility Allowance. There were no changes made to the Appellant’s income amounts. (Ex. 4: NOA, ██████/19; Ex. 5: SUA Dollar Issuance Notice, ██████/19)
12. 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 ██████ 2019. Therefore, this decision is due not later than ██████ 2020, 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 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.
4. The Appellant is considered a disabled member for purposes of the SNAP program, because he receives SSI benefits.
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. The Department correctly determined that the Appellant’s SNAP assistance unit consists of one person.
8. Title 7 of the CFR § 273.12(a)(5) provides the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section. The following requirements are applicable to simplified reporting systems: (i) Included households. The State agency may include any household certified for at least 4 months within a simplified reporting system. (ii) Notification of simplified reporting requirement. At the initial certification, recertification and when the State agency transfers the households to simplified reporting, the State agency shall provide the household with the following: (A) A written and oral explanation of how simplified reporting works; (B) For households required to submit a periodic report, a written and oral explanation of the reporting requirements including: (1) The additional changes that must be addressed in the periodic report and verified. (iii) Periodic report. (A) Exempt households. The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or have a disability with no earned income.

9. Title 7 of the CFR § 273.12(a)(5)(iii)(G) provides that the periodic report shall be the sole reporting requirement for any information that is required to be reported on the form, except that a household required to report less frequently than quarterly shall report when its monthly gross income exceeds the monthly gross income limit for its household size in accordance with paragraph (a)(5)(v) of this section, and able-bodied adults subject to the time limit of 7 CFR § 273.24 shall report whenever their work hours fall below 20 hours per week, averaged monthly.
10. Title 7 of the CFR § 273.12(a)(5)(v) provides for Reporting when gross income exceeds 130 percent of poverty. A household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at §273.9(a)(1). The household shall use the monthly gross income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.
11. All changes to income must be reported to the Department on the PRF, the Appellant is not required to report income changes under 130% of the FPL on a monthly basis.
12. Title 7 CFR § 273.9(b)(2)(ii) provides for counting pensions and social security benefits as unearned income.
13. UPM 5050.13(B)(5) provides SSI 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.
14. The Appellant's \$510.99 SSI income is counted in determining his SNAP eligibility.
15. The Appellant's \$214.34 pension is counted in determining his SNAP eligibility.
16. Title 7 CFR § 273.9(b)(1) provides that household income shall include all wages and salaries of an employee.
17. 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.
18. The Department correctly included the gross earnings of the Appellant when calculating the SNAP benefits.
19. Title 7 CFR § 273.10(c)(1)(ii) & (c)(2)(i) provides for converting income into monthly amounts.

20. 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

21. The Appellant's earned income based on four consecutive weeks of gross earnings and averaged by 4.3 is included when calculating the Appellant's SNAP eligibility.

22. The Appellant's average monthly gross earnings total \$176.21 (40.98×4.3).

23. Title 7 CFR § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.

24. 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 \$164.00 per month; {effective October 1, 2018}
 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.
25. The Appellant's adjusted gross income equals \$699.30 (\$176.21-35.24 (20% deduction) - \$167.00 (standard deduction) + \$510.99 (SSI unearned income) + \$214.34 (pension) = \$699.30).
26. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.
27. 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;
28. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.
29. 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.
30. The Standard Utility Allowance is \$736.00 effective [REDACTED] 2019.
31. Title 7 CFR § 271.2 provides for the maximum shelter deduction.
32. 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 [REDACTED] 2019, is \$569.00).

33. The Department correctly determined that the Appellant's shelter hardship is not capped.
34. The Appellant's shelter costs totaled \$936.00 (\$200.00 (rent) + \$736.00 (Standard Utility Allowance) = \$936.00)
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:

<u>SNAP BENEFIT CALCULATION</u>	
<u>INCOME</u>	
Earned Income	\$176.21
Less 20 percent	-\$35.24
= Adjusted earned income	\$140.97
+ Unearned income	\$725.33
= Total income	<u>\$866.30</u>
- Standard deduction	-\$167.00
- Medical expenses	\$0.00
- Dependent care expenses	\$0.00
= Adjusted gross income	\$699.30
<u>SHELTER COSTS</u>	
Rent	\$200.00
+ SUA	<u>\$736.00</u>
Total shelter costs	\$936.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$936.00
Less 50% of adjusted gross income	<u>-\$349.65</u>
= Total shelter hardship <small>(max \$552 if not disabled or elderly)</small>	\$586.35
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$699.30
Less shelter hardship	<u>-\$586.35</u>
Net Adjusted Income (NAI)	\$112.95
<u>BENEFIT CALCULATION</u>	

Thrifty Food Plan for one person	\$194.00
Less 30% of NAI (rounded up to nearest whole dollar)	<u>\$34.00</u>
SNAP award	\$160.00

38. The Department correctly calculated the Appellant's [REDACTED] 2019 benefit of \$160.00

DISCUSSION

The Department correctly calculated the Appellant's SNAP benefits for [REDACTED] 2019 and ongoing. The Appellant and his AREP did not report any changes to his income on the PRF so the Department was correct to calculate his eligibility based on the last verified information. The Appellant is not required to report all the minor fluctuations of his income as he does with the Social Security Administration. Contrary to the Appellant's AREP's belief, the Department does not receive earned income verifications from the SSA or the employer and can only make changes to his eligibility when he reports it to DSS directly. As the changes were not reported on the PRF the Department did not make any changes to his eligibility.

DECISION

The Appellant's appeal is DENIED

Marci Ostroski
Marci Ostroski
Hearing Officer

CC: Rachel Anderson, Cheryl Stuart, Lisa Wells, Operations Managers, New Haven Regional Office
Yecenia Acosta, Operations manager, Stamford Regional Office
Noel Lord, Fair Hearing Liaison, Stamford 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.