

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

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

Client ID # ██████████
Request # 149593

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 food stamp benefits under the Supplemental Nutrition Assistance Program ("SNAP") effective ██████████ 2019.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department's decision to deny such 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
Garfield White, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for benefits under the SNAP effective [REDACTED] 2019 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2019, the Appellant submitted an application for benefits under the SNAP to the Department for a household of three: herself, her two sons [REDACTED] (child 1) and [REDACTED] (child 2) at the regional office. (Exhibit 2: Eligibility Determination Document)
2. On [REDACTED] 2019, the Appellant completed the application interview with the Department. (Hearing Record)
3. The Appellant is [REDACTED] years old and not disabled. (Appellant's Testimony and Exhibit 2: Eligibility Determination Document)
4. Child [REDACTED] is [REDACTED] years old and not disabled. (Appellant's Testimony and Exhibit 2: Eligibility Determination Document)
5. Child [REDACTED] is [REDACTED] years old and not disabled. (Appellant's Testimony and Exhibit 2: Eligibility Determination Document)
6. The Appellant works for [REDACTED] ("employer") as a certified nurse's aide ("CNA") per diem. The Appellant earned the following wages:

Pay period end	Pay date	Hours Worked	Gross Wages
[REDACTED]-19	[REDACTED]-19	32	\$368.00
[REDACTED]-19	[REDACTED]-19	35	\$402.50
[REDACTED]-19	[REDACTED]-19	39.25	\$451.36
[REDACTED]-19	[REDACTED]-19	40	\$460.00
[REDACTED]-19	[REDACTED]-19	38.25	\$439.88
[REDACTED] Total			\$2,121.74
[REDACTED]-19	[REDACTED]-19	47	\$580.75
[REDACTED]-19	[REDACTED]-19	33	\$411.13
[REDACTED]-19	[REDACTED]-19	39	\$448.50
[REDACTED]-19	[REDACTED]-19	00	\$00.00
[REDACTED] Total			\$1,440.38
[REDACTED]-19	[REDACTED]-19	35	\$401.10
[REDACTED]-19	[REDACTED]-19	38.5	\$456.92
[REDACTED]-19	[REDACTED]-19	37	\$429.00

██████-19	██████-19	44	\$537.89
██████ Total			\$1,824.91
██████-19	██████-19	24	\$276.00
██████-19	██████-19	8	\$96.00
██████ Total			Unable to Determine

(Exhibit 3: The Work Number)

7. The Appellant's medical condition prevents her from safely performing her job duties as a CNA. (Appellant's Testimony)
8. On ██████████, 2019, the Department confirmed with the employer via telephone, the Appellant is scheduled to work on ██████████ 2019. (Exhibit 1: Case Notes)
9. Beginning ██████████ 2019, Child 1 enrolled into the fall semester at ██████████ ("community college") and attends part time. Child 1 receives financial aid. (Appellant's Testimony and Exhibit 1: Case Notes)
10. Child 1 works for ██████████ ("Child 1's employer") part time. Child 1 earned the following wages:

Pay period end	Pay date	Hours worked	Gross wages
██████-19	██████-19	50	\$770.00
██████-19	██████-19	54.75	\$869.75
██████-19	██████-19	52.5	\$822.50
██████-19	██████-19	56.5	\$906.50
██████-19	██████-19	54	\$854.00
██████ Total			\$4,222.75
██████-19	██████-19	36	\$504.00
██████-19	██████-19	42.75	\$617.75
██████-19	██████-19	30	\$420.00
██████-19	██████-19	30	\$420.00
██████ Total			\$1,961.75
██████-19	██████-19	34.75	\$486.50
██████-19	██████-19	31.50	\$441.00
██████-19	██████-19	29	\$406.00
██████-19	██████-19	32.50	\$455.00
██████-19	██████-19	25	\$350.00
██████ Total			\$2,138.50
██████-19	██████-19	32	\$448.00

██████████ Total			Unable to Determine
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(Exhibit 3: The Work Number)

11. Beginning ██████████ 2019, Child 2 enrolled into the fall semester at ██████████ (the “university”) and attends part time. Child 2 receives financial aid. (Appellant’s Testimony and Exhibit 1: Case Notes)
12. Child 2 works for ██████████ (“Child 2’s employer”) part time. Child 2 earned the following wages:

Pay period end	Pay date	Hours worked	Gross wages
██████-19	██████-19	7.74	83.52
██████-19	██████-19	6.87	74.13
██████-19	██████-19	7.52	81.15
██████-19	██████-19	4.53	48.88
██████████ Total			\$287.68
██████-19	██████-19	7.93	85.58
██████-19	██████-19	5.33	57.52
██████-19	██████-19	8.71	93.99
██████-19	██████-19	8.77	94.53
██████████ Total			\$331.62
██████-19	██████-19	9.99	107.80
██████-19	██████-19	9.28	102.22
██████-19	██████-19	10.02	112.23
██████-19	██████-19	9.87	110.55
██████████ Total			\$432.80
██████-19	██████-19	9.02	101.03
██████-19	██████-19	9.09	101.82
██████-19	██████-19	5.48	61.38
██████████ Total			Unable to Determine

(Exhibit 3: The Work Number)

13. The Appellant lives with Child 1 and Child 2 in her sister’s home. The sister does not charge the Appellant rent. The Appellant shares utility expenses with her sister. (Appellant’s Testimony)
14. The Department determined a household of two: the Appellant and Child 1. The Department excluded Child 2 from the SNAP household because he is a part time college student working less than 20 hours per week and does not meet the eligibility criteria under students in higher education.

The Department determined Child 1 meets the criteria under students in higher education because he attends college part time and works at least 20 hours per week. (Department Representative's Testimony and Exhibit 1: Case Notes)

15. The SNAP gross income limit for a household of two is \$2,607.00 per month. (Department Representative's Testimony)
16. The Department determined the Appellant's monthly gross income as \$1,675.68. $\frac{\text{█}}{2019} \$2,121.76 + \frac{\text{█}}{2019} \$1,440.38 + \frac{\text{█}}{2019} \$1,464.91 = \$5,027.05 / 3 \text{ months} = \$1,675.6833$. (Exhibit 3: The Work Number, Exhibit 4: SNAP Computation Sheet, and Department Representative's Testimony)
17. The Department determined child 1's monthly gross income as \$1,659.00. $\frac{\text{█}}{19} \$448.00 + \frac{\text{█}}{19} \$350.00 + \frac{\text{█}}{19} \$455.00 + \frac{\text{█}}{19} \$406.00 = \$1,659.00$ (Exhibit 3: The Work Number, Exhibit 4: SNAP Computation Sheet, and Department Representative's Testimony)
18. The Department determined the household's gross income as \$3,249.68. $\$1,675.68 \text{ Appellant's gross income} + \$1,659.00 \text{ child 1's gross income} = \$3,249.68$. (Exhibit 4: SNAP Computation Sheet and Department Representative's Testimony)
19. The Department determined the household ineligible for benefits under the SNAP because the household's monthly gross income of \$3,249.68 exceeds the SNAP gross income limit of \$2,607.00 per month for a household of two. (Hearing Record)
20. On $\frac{\text{█}}{2019}$, the Department issued a notice of action. The notice stated the Department denied the Appellant's application for SNAP for the reasons the monthly gross income of your household is more than the limit for this program, does not meet program requirements, and eligible student program requirements not met. (Exhibit 5: Notice of Action)
21. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on $\frac{\text{█}}{2019}$. Therefore, this decision is due not later than $\frac{\text{█}}{2020}$.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) states, “The Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.”
2. Title 7 of the Code of Federal Regulations (“C.F.R.”) Section 273.2(c)(1)(i) provides as follows:

Households must file SNAP applications by submitting the forms to the SNAP office either in person, through an authorized representative, by mail, by completing an on-line electronic application, or, if available, by fax, telephone, or other electronic transmission.

Section 1505.10(B)(1) of the Uniform Policy Manual (“UPM”) states, “Individuals who desire to obtain aid must file a form request for assistance.”

“the form request must be made in writing on the application form.” UPM § 1505.10(B)(2)

3. “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))
4. The Department correctly determined the Appellant filed an application for benefits under the SNAP.
5. Federal regulation provides as follows:

The date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day. For online applications, the date of application is the date the application is submitted, or the next business day if it is submitted after business hours. For telephonic applications, the date of application is the date on which the household member provides verbal assent.

7 C.F.R. § 273.2(c)(1)(iv)

“The date of application is the date a formal written request for assistance is filed with the Department in accordance with the rules established for the program for which application is made.” UPM 1500.01

“For Food Stamps applications, except as noted below in 1510.10D.4, the date of application is considered to be the date that a signed application form is received by: the appropriate District Office designated to serve the applicant’s geographic region of resident.” UPM § 1505.10(D0(3)(a)

6. The Department correctly determined the date of the application for SNAP as [REDACTED] 2019.
7. “A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section: a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.” 7 C.F.R. § 273.1(a)(3)

Federal regulation provides as follows:

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. A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).

7 C.F.R. § 273.1(b)(1)(ii)

“A group of individuals living together, buying food, preparing meals for home consumption and eating together are, as a general rule, a Food Stamp assistance unit.” Uniform Policy Manual (“UPM”) § 2020.05(A)

“Certain closely related family members must be included in the same assistance unit unless they meet the special conditions applicable only to certain elderly or disabled individuals.” UPM § 2020.05(C)

“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.” UPM § 2020.10

“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: children ages 18 through 21 living with their parents.” UPM § 2020.10(A)(3)

8. Federal regulation provides as follows:

An individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in paragraph (b) of this section. An individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

7 C.F.R. § 273.5(a)

Federal regulation provides as follows:

To be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria.

1. Be age 17 or younger or age 50 or older;
2. Be physically or mentally unfit;
3. Be receiving Temporary Assistance for Needy Families under the Title IV of the Social Security Act;
4. Be enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program;
5. Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours. The State agency may choose to determine compliance with this requirement by calculating whether the student worked an average of 20 hours per week over the period of a month, quarter, trimester or semester. State agencies may choose to exclude hours accrued during academic breaks that do not exceed one month. A State agency that chooses to average student work hours must specify this choice and specify the time period over which the work hours will be averaged in its State plan of operation.
6. Be participating in a State or federally financed work study program during the regular school year.
7. Be participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer;
8. Be responsible for the care of a dependent household member under the age of 6;
9. Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when the State agency has determined the adequate child care is not available to enable the

- student to attend class and comply with the work requirements of paragraph (b)(5) or (b)(6) of this section;
10. Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.
 11. Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in paragraphs (b)(11)(i) through (b)(11)(iv) of this section. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption.

7 C.F.R. § 273.5(b)

“Some students must meet specific qualifications in addition to all other eligibility requirements in order to be eligible for Food Stamps.” UPM § 3020.05

“Students in institutions of higher education who are otherwise eligible qualify if they are any of the following: enrolled less than half-time.” UPM § 3020.05(B)(5)

Department policy provides as follows:

Students in institutions of higher education who are otherwise eligible qualify if they are any of the following: enrolled half –time or more if:

- a. Participating in a federally financed work study program during the regular school year. Qualification begins when the school term begins or the work study is approved, whichever is later. Qualification ends on the last day of the month in which the school term ends if there is a break of at least a full month between school terms except when the student participates in whork study during the break. Qualification also ends if it becomes known the student has refused a work study assignment; or
- b. Employed a minimum of 20 hours per week and be paid for such employment; or
- c. Self-employed a minimum of 20 hours per week with weekly earnings the equivalent of the Federal minimum wage multiplied by 20 hours.

UPM § 3020.05(B)(6)

9. The Department correctly determined the Appellant a member of the SNAP assistance unit.
10. The Department correctly determined the community college and the university as institutions of higher education.
11. The Department correctly determined child 1 as enrolled in an institution of higher education and qualified as a member of the SNAP assistance unit. However the enrollment status of at least half-time cannot be determined based on the hearing record. The hearing record reflects part time attendance for child 1, further clarification is warranted to determine if part-time status is at least half-time. If child 1's status at the community college is enrolled at least half-time, then child 1 meets the exemption criteria for students because child 1 works a minimum of 20 hours per week. If child 1 enrolled less than half-time, then the exemption criteria is not applicable to child 1 and child 1 is considered a mandatory member of the assistance unit since child 1 is under the age of 22.
12. The Department correctly determined child 2 as enrolled in an institution of higher education, however the enrollment status of at least half-time cannot be determined based on the hearing record. The hearing record reflects part time attendance for child 2, further clarification is warranted to determine if part-time status is at least half-time. If child 2's status at the university is enrolled at least half-time, then child 2 fails to meet the exemption criteria for students enrolled in an institution of higher education because child 2 does not work a minimum of 20 hours per week and therefore would not be a member of the SNAP assistance unit. If enrolled less than half-time, then the student exemption criteria is not applicable and child 2 would be a mandatory member of the assistance unit since child 2 is under the age of 22. Based on the hearing record, whether or not the Department properly excluded child 2 from the assistance unit cannot be determined.
13. Based on the hearing record, the assistance unit size cannot be determined.
14. Federal regulation provides as follows:

Except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this section, households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State agencies may not require households to report for an in-office interview during their certification

period, though they may request households to do so. For example, State agencies may not require households to report en masse for an in-office interview during their certification periods simply to review their case files, or for any other reason. State agencies may not require an in person interview solely to take a photo. Interviews may be conducted at the SNAP office or other mutually acceptable location, including a household's residence. If the interview will be conducted at the household's residence, it must be scheduled in advance with the household. If a household in which all adult members are elderly or disabled is certified for 24 months in accordance with §273.10(f)(1), or a household residing on a reservation is required to submit monthly reports and is certified for 24 months in accordance with §273.10(f)(2), a face-to-face interview is not required during the certification period. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The applicant may bring any person he or she chooses to the interview. The interviewer must not simply review the information that appears on the application, but must explore and resolve with the household unclear and incomplete information. The interviewer must advise households of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The interviewer must advise households that are also applying for or receiving PA benefits that time limits and other requirements that apply to the receipt of PA benefits do not apply to the receipt of SNAP benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for SNAP benefits. The interviewer must conduct the interview as an official and confidential discussion of household circumstances. The State agency must protect the applicant's right to privacy during the interview. Facilities must be adequate to preserve the privacy and confidentiality of the interview.

7 C.F.R. § 273.2(e)(1)

“The office interview is conducted as a condition of eligibility in the following programs: FS.” UPM § 1505.30(A)(2)(b)

“The purpose of the application interview is: to explore any other issues related to need or eligibility which are unclear or unresolved.” UPM § 1505.30(C)(1)(d)

15. On [REDACTED], 2019, the Department correctly completed an application interview with the Appellant. Based on the hearing record, whether or not the Department explored and resolved the student status of child 1 and child 2 and the Appellant's claim that her medical condition prevents her from working causing the reduction in employment hours during the application interview cannot be determined.

16. "Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section." 7 C.F.R. 273.9(b)

"In consideration of income, the Department counts the assistance unit's available income, except to the extent that it is specifically excluded. Income is considered available if it is: received directly by the assistance unit." UPM 5005(A)(1)

17. "Earned income shall include: All wages and salaries of an employee." 7 C.F.R. § 273.9(b)(1)(i)

"Earned income is income which the assistance unit receives in exchange for the performance of duties or through self-employment and may be in the form of wages, salary, benefits, or proceeds from self-employment." UPM § 5000.01

18. "Unearned income shall include, but not be limited to: Scholarships, educational grants, deferred payment loans for education, veteran's educational benefits and the like, other than educational assistance with a work requirement, in excess of amounts excluded un S 273.9(c)." 7 C.F.R. § 273.9(b)(2)(iv)

"Income received from education funding such as loans, scholarship, fellowships, veterans educational benefits, and loans on which payment is deferred are excluded, subject to limitations, when they are used at: an institution of post-secondary education." UPM § 5050.77(C)(1)(a)(1)(a)

19. Federal regulation provides as follows:

A household's eligibility shall be determined for the month of application by considering the household's circumstances for the entire month of application. Most households will have the eligibility determination based on circumstances for the entire calendar month in which the household filed its application. However, State agencies may, with the prior approval of FNS, use a fiscal month if the State agency determines that it is more efficient and satisfies FNS that the accounting procedures fully comply with certification and issuance requirements contained in these regulations. A State agency may elect to use either a standard fiscal month for all households, such as from the 15th of one calendar month to the 15th of the next calendar month, or a fiscal month that will vary for each household depending on the date an individual files an application for the Program. Applicant households consisting of residents of a public institution who apply jointly for SSI and SNAP benefits prior to release from the public institution in accordance with §273.11(i) will have their

eligibility determined for the month in which the applicant household was released from the institution.

7 C.F.R. § 273.10(a)(1)(i)

“Income which is counted in determining the unit’s eligibility and calculating its benefits must be converted into monthly amounts if it is not already received in that manner. This chapter described the methods of conversion used under various circumstances.” UPM § 5025

20. Federal regulation provides as follows:

Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household shall be entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. The same application shall be used for the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in §273.2.

7 C.F.R. § 273.10(a)(3)

21. Federal regulation provides as follows:

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.

7 C.R.F. § 273.10(c)(1)(i)

Department policy provides as follows:

The Department uses the best estimate of the amount of income the unit will have, if the exact amount is unknown. This estimate is based upon:

- a. Information about what the unit received in similar past periods of time; and
- b. A reasonable anticipation of what circumstances will exist to affect the receipt of income in future months.

UPM § 5025.05(A)(2)

22. Federal regulation provides as follows:

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. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income. Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The State agency shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the State agency automatically attribute to the household the amounts of any past income. The State agency shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

7 C.F.R. § 273.10(c)(1)(ii)

Federal regulation provides as follows:

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. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

7 C.F.R. § 273.10(c)(2)(i)

Department policy provides as follows:

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.

UPM § 5025.05(B)(2)

23. Federal regulation provides as follows:

The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level. The State agency shall establish guidelines to be followed in determining what shall be considered questionable information. These guidelines shall not prescribe verification based on race, religion, ethnic background, or national origin. These guidelines shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision.

7 C.F.R. § 273.2(f)(2)(i)

24. Federal regulation provides as follows:

Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in §272.8, the State agency may obtain verification from a third party as specified in paragraph (f)(9)(v) of this section.

7 C.F.R. § 273.2(f)(4)(iv)

“The assistance unit may submit any evidence which it feels will support the information provided by the unit.” UPM § 1540.10(B)

“Failure to provide required verification may result in the following actions where appropriate to the particular circumstance in question: the Department may refrain from taking action until further clarification is obtained.” UPM § 1599.05(D)(2)

25. Although the Department correctly determined the Appellant’s employment income as fluctuating, the Department failed to consider the household’s circumstances for the month of application and the medical restrictions claimed by the Appellant. Using a longer period of time, such as a three month average, is appropriate if it would provide a more accurate indication of anticipated fluctuations in future income if changes in income had not occurred. The Department shall not automatically attribute to the household the amounts of any past income when changes have occurred. The Department failed to explore with the Appellant and the employer if the Appellant’s return to employment would be at the same rate and same hours as previously worked prior to the Appellant’s reduction in hours. It is also noted; the Department incorrectly calculated the Appellant’s ██████████ 2019 gross wages as \$1,464.91 resulting in an inaccurate monthly average as calculated by the Department. Refer to finding of fact #6 and #16.
26. The Department incorrectly determined child 1’s monthly gross income as \$1,659.00. The correct calculation for the four week period is \$1,783.43. (██████/19 \$406.00 + ██████/19 \$455.00 + ██████/19 \$350.00 + ██████/19 \$448.00 = \$1659.00 / 4 weeks = \$414.75 x 4.3 = \$1,783.425) The Department failed to convert the income to a monthly amount by multiplying the weekly average by 4.3 as outlined under federal regulation and Department policy.

27. Based on the hearing record, whether or not the Department reviewed the financial aid received by child 1 or child 2 cannot be determined.

28. Federal Regulation provides as follows:

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 established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

7 C.F.R. § 273.9(a)

“Income eligibility for the FS program is determined either through the use of FS gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance or SSI.” UPM § 5520.40

“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.” UPM § 5520.40(A)(1)

“Those assistance unit’s which qualify as categorically eligible are not subjected to gross or applied income eligibility test.”

29. Federal regulation provides as follows:

The State agency, at its option, may extend categorical eligibility to the following households only if doing so will further the purposes for the Food and Nutrition Act of 2008:

Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.

7 C.F.R. §273.2(j)(2)(ii)(A)

“An assistance unit is considered categorically eligible for the SNAP program if: at least one member of the assistance unit receives or is authorized to receive TANF-funded services under the Help for People in Need Program.” UPM § 2545.05(A)(2)

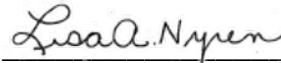
30. “The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.” 7 C.F.R. § 273.9(a)(3)
31. UPM § P-5520.36 provides for the gross income limits for SNAP expanded categorical eligibility as 185% of the Federal Poverty Level.
32. The 2019 Poverty Guidelines for the 48 Contiguous States and the District of Columbia for a household of two is \$16,910.00 annually and for a household of three is \$21,330.00 annually. [Federal Register/Vol. 84, No. 22, ██████████ 2019, pp1168]
33. The Department correctly determined the SNAP federal poverty level (“FPL”) for a household of two as \$2,607.00. $\$16,910.00 \text{ annual fpl} / 12 \text{ months} = \$1,409.1666 \times 185\% = \$2,606.9582$
34. The SNAP FPL for a household of three is \$3,289.00. $\$21,330.00 \text{ annual} / 12 \text{ months} = \$1,777.50 \times 185\% = \$3,288.375$
35. Based on the hearing record, the household’s gross monthly income cannot be determined.
36. Based on the hearing record, whether or not the household is subject to the SNAP gross income and applied income tests cannot be determined.
37. Based on the hearing record, whether or not the Department’s action to deny the Appellant’s application for benefits under the SNAP cannot be determined.

DECISION

The Appellant’s appeal is remanded back to the Department for further review.

ORDER

1. The Department must reopen the Appellant's application for benefits under the SNAP effective [REDACTED] 2019 and continue to process eligibility. The Department is instructed to explore and resolve any unclear or incomplete information that includes the college enrollment status for child 1 and child 2, including financial aid, the impact the Appellant's medical condition has on her employment income, and properly convert household member's income into a monthly amount by income averaging or multiplying weekly amounts by 4.3.
2. Compliance is due 10 days from the date of this decision.



Lisa A. Nyren
Fair Hearing Officer

CC: Musa Mohamud, DSS RO 10
Judy Williams, DSS RO 10
Jessica Carroll, DSS RO 10
Jay Bartolomei, DSS RO 10
Garfield White, DSS RO 10

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.

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.