

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

[REDACTED], 2020
Signature Confirmation

Client ID # [REDACTED]
Request # 150531

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2019, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") advising her of an overpayment to her Supplemental Nutrition Assistance Program ("SNAP") benefits of \$967.00 for the period of [REDACTED] 2019, through [REDACTED] 2019, and advising her that she must repay the overpayments.

On [REDACTED] 2019, the Appellant requested an administrative hearing to contest the Department's decision regarding the proposed overpayment and repayment of such benefits.

On [REDACTED] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED] 2020, in accordance with sections 17b-60, 17-61 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 friend/observer
Garfield White, Department's Representative
Shelley Starr, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's determination that the Appellant was overpaid in SNAP benefits and that the Department must recover the overpaid benefits is correct.

FINDINGS OF FACT

1. The Appellant resides in a household consisting of three members, the Appellant, age [REDACTED] and her two minor grandson's ages [REDACTED] and [REDACTED] for which she has full custody. She receives SNAP assistance for the assistance unit consisting of the three members. (Hearing Summary; Appellant's Testimony; Exhibit 4: Post Hearing Exhibit-Notice of Action dated [REDACTED] 2019)
2. The Appellant receives Social Security ("SSA") income of \$1,124.50 per month. Her two grandsons each receive \$680.00 per month. (Hearing Summary; Department's Testimony; Exhibit 4: Post Hearing Exhibit-Notice of Action dated [REDACTED] 2019)
3. The Appellant is responsible for a \$725.00 monthly mortgage. She is responsible for utilities and she receives the standard utility allowance. (Department's Testimony; Appellant's Testimony; Hearing Record)
4. The Appellant has no dependent care, child support payments or other deductions. (Hearing Summary; Hearing Record; Department's Testimony)
5. On [REDACTED], 2019, the Department granted SNAP assistance for the assistance unit consisting of three members. (Hearing Summary; Exhibit 4: Post Hearing Exhibit- Notice of Action [REDACTED] 2019; Exhibit 1: Case Notes)
6. At the time of the SNAP application, the Department calculated the Appellant's total household income incorrectly as \$596.00, omitting the Appellant's reported Social Security benefit of \$1,124.50 and computing the Appellant's grandson's social security benefits as \$295.00 per month and \$301.00 per month. (Hearing Summary; Exhibit 4: Post Hearing Exhibit- Notice of Action dated [REDACTED] 2019; Department's Testimony)
7. The Appellant received a SNAP benefit issuance of \$458.00 in the month of [REDACTED] 2019 and \$509.00 in [REDACTED] of 2019, for her assistance unit of three members. (Hearing Summary; Department's Testimony; Exhibit 4: Notice of Action dated [REDACTED] 2019; Hearing Record)
8. On [REDACTED], 2019, the Department interfaced with the Social Security Administration and the assistance unit's social security benefits were correctly updated to reflect \$1,124.50 monthly income of the Appellant and \$680.00 monthly income for each of her Grandson's. (Hearing Summary; Hearing Record)

9. On [REDACTED], 2019, the Department sent the Appellant a Notice of Action informing that her Supplemental Nutritional Assistance benefits will close effective [REDACTED] 2019, because the amount of income counted is higher than the maximum SNAP benefit for your household size. (Hearing Summary; Post Hearing Exhibit 4: Notice of Action dated [REDACTED] 2019)
10. The Supplemental Nutritional Assistance net income standard for a household consisting of three members is \$1,778.00 (100% of FPL). (Hearing Summary; Income Limit & Standards chart; Hearing Record)
11. On [REDACTED] 2019, the Department sent the Appellant a Notification of Overpayment and Recoupment indicating that the Appellant was overpaid \$967.00 in SNAP benefits for the period of [REDACTED], 2019, through [REDACTED] 2019. (Hearing Summary; Exhibit 2: Notification of Overpayment and Recoupment dated [REDACTED], 2019)
12. The Department considers the SNAP overpayment to be an Agency Error. (Hearing Record)
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 hearing. The Appellant requested an administrative hearing on [REDACTED], 2019. Therefore, this decision is due not later than [REDACTED], 2020.

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. Section 17b-88 of the Connecticut General Statutes, authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayments and take such other action as conforms to federal regulations, including, but not limited, conducting administrative disqualification hearings.
3. 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 stepparent.

“The Department’s Uniform Policy Manual (“UPM”) is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 a.2d712 (1990)).

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.

The Department correctly determined that the Appellant has an assistance unit consisting of three members; the Appellant and her two minor Grandsons.

4. Title 7 of the CFR § 273.9(b)(1) provides that household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

Title 7 of the CFR § 273.9 (b)(2) provides unearned income shall include but not be limited to (i) Assistance payments from Federal or federally aided assistance programs, such as supplemental security income (SS) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in § 271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income under the provision of paragraph (c)(1) of this section. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income. (ii) Annuities; pensions; retirement, veteran’s or disability benefits; worker’s or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in § 272.12; old age, survivors, or social security benefits, strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week. (v) Payments from Government-sponsored

programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

UPM § 5005 (A)(1) provides that the Department counts the assistance unit's available income, and that income is considered available if it is received directly by the assistance unit.

UPM § 5050.13 (A) (6) provides that benefits received from Social Security by any member of a SNAP assistance unit is counted in the calculation of eligibility and benefits for the entire unit.

The Department correctly included the Appellant's Social Security income and the Social Security income of her Grandson's as available household income, when calculating the SNAP overpayment months.

5. Title 7 of the CFR §§273.10 (c)(1)(ii) & (c)(2)(i) provides for converting into monthly amounts.

UPM § 5025.05 provides for Income Received Monthly or More Frequently and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.

UPM § 5025.05 (B) provides if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

6. UPM § 5520.40 provides that income eligibility for the SNAP program is determined either through the use of the SNAP gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance of SSI.
7. Title 7 of the CFR § 273.9 (a) provides in part 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 the Food Stamp Program. 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 the Food Stamp program. 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 levels established in Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

UPM § 5520.40 (A) provides that 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.

8. UPM § 5520.40(B)(1) provides that 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.

UPM § 5520.40 (B)(2) provides that 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 Stamp benefits; (b) if the total applied income equals or is less than the FSAIL, the unit is eligible.

The Department correctly determined that the assistance unit consists of an elderly (over 60) or disabled member and is subject to the net income test.

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

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; {effective October 2019}
 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.

**The Department correctly calculated the Appellant's household unearned income and determined the applied income reducing by the \$167.00 disregard.
(\$1,224.50 + \$680.00 + 680.00 = 2,484.50 - \$167.00)**

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

UPM § 5001.01 provides the definition of an elderly person- Food stamp Program and states that an elderly person in the context used by the Food Stamp Program means a person who is sixty or more years of age.

UPM § 5035.15 (E) 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.

11. 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;

12. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.

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

The Department correctly determined the Appellant has a monthly mortgage of \$725.00 and correctly allowed the \$736.00 Standard Utility Allowance.

13. Title 7 CFR § 271.2 provides for the maximum shelter deduction.

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 deduction, which is established by the USDA, is allowed. The maximum shelter hardship is revised annually effective October 1. The shelter hardship cannot exceed \$569 unless AU has a member 60 or older or disabled.

The Department correctly determined the Appellant's shelter hardship as \$302.25. (\$1,461.00 (shelter expense) - \$1,158.75 {50% of the adjusted gross income} = \$302.25.

14. Title 7 CFR § 273.10 (e)(2)(ii)(A)(1) provides for the SNAP benefit calculation.

UPM § 6005 (C) provides that in the SNAP, the amount of benefits 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.

The Department correctly determined that 30% of the Appellant's net adjusted income, rounded up, was \$605.00 (\$2,015.25) (applied income) x .30 = \$604.57.

15. Effective October and November 2019, The Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

INCOME	
Earned Income	\$0.00
Less 20%	<u>\$0.00</u>
Total	\$ 0.00
Plus Unearned Income	<u>\$1,124.50</u>
	<u>+680.00</u>
	<u>+680.00</u>
Total	\$2,484.50
Less standard deduction	<u>\$167.00</u>
Adjusted gross income	\$2,317.50
SHELTER COSTS	
Rent/Mtg	\$725.00
SUA	<u>\$736.00</u>
Total shelter costs	\$1,461.00
SHELTER HARDSHIP	
Shelter costs	\$1,461.00
Less 50% of adjusted gross income	<u>\$1,158.75</u>
Total shelter hardship	\$302.25 <small>(Can not exceed \$569 (unless elderly or disabled))</small>
ADJUSTED NET INCOME	
Adjusted gross income	\$2,317.50
Less shelter hardship	<u>-\$302.25</u>
Net Adjusted Income (NAI)	\$2,015.25
BENEFIT CALCULATION	
Thrifty Food Plan for 3 Person	\$509.00
Less 30% of NAI	<u>-\$605.00</u>
SNAP AWARD	0.00

The Department correctly determined that the Appellant's net income of \$2,015.25 exceeded the SNAP net income standard of \$1,778.00 for an assistance unit of three. Because of the Appellant's incorrect SNAP issuance, SNAP overpayments were created for the period of [REDACTED] 2019 through [REDACTED] 2019.

The Department correctly determined that the Appellant's correct [REDACTED] and [REDACTED] 2019 SNAP benefit is zero.

16. Title 7 of the CFR § 273.18 (c) provides for calculating the claim amount. (1) Claims not related to trafficking. (i) As a State agency, you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment and for an

IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include an amounts that occurred more than six years before you became aware of the overpayment. (ii) The actual steps for calculating claims are to (A) determine the correct amount of benefits for each month that a household received an overpayment.

UPM § 7000.01 (A) provides the definition of an overpayment and states that an overpayment is the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount to which the unit is properly entitled.

UPM § 7045.05 (A) provides the Department recoups from the assistance unit which received the overpayment.

UPM § 7045.05 (C) provides for the participation of the assistance unit in the recoupment process. 1. The Department allows the assistance unit to participate in the recoupment process by: a. discussing the cause and amount of the overpayment with the Department; and b. negotiating with the Department in establishing a recoupment plan.

The Department properly allowed the Appellant an opportunity to participate in the recoupment process.

17. Title 7 of the CFR § 273.18 (c)(1)(A)&(C) provide that the actual steps for calculating a claim of overpayment and are to determine the correct amount of benefits for each month that a household received an overpayment and subtract the correct amount from the amount actually received.

Title 7 of the CFR § 273.18 (e)(3)(iv)(E) provides that the State Agency must include language as to how the claim was calculated.

UPM § 7045.15(A) provides for the computation of Food Stamps Overpayments and speaks to the general description of the process. The Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount the assistance unit should have received during that period.

The Department correctly calculated the Appellant's overpayment as follows:

Month	Total Benefit Rec	Eligible Benefit	Overpayment Amt.
██████████ 2019	\$458.00	\$0.00	\$458.00
██████████ 2019	\$509.00	\$0.00	\$509.00
Total Overpayment			\$967.00

The Department's calculation of the Appellant's household income when it calculated the Appellant's SNAP overpayment for the period covering [REDACTED] 2019 through [REDACTED], 2019 used the Appellant's total monthly household Social Security income. The Appellant's household is over income for the SNAP.

The total amount of SNAP overpayment is \$967.00.

18. Title 7 of the CFR § 273.18(a) provides in part a recipient claim is an amount owed because of benefits that are overpaid. The State agency must establish and collect any claim by following these regulations. The State Agency must develop a plan for establishing and collecting claims.

19. Title 7 of the CFR § 273.18 (b) provides for types of claims. There are three types of claims:

- (1) Intentional Program violation (IPV) claim any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16.
- (2) Inadvertent household error (IHE) claim any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
- (3) Agency error (AE) claim any claim for an overpayment caused by an action or failure to take action by the State agency.

The Department correctly determined that the SNAP overpayments are considered an Agency Error and must be repaid.

20. Title 7 of the CFR § 273.18 (c)(1) (A) and (C) provide that the actual steps for calculating a claim of overpayment are to determine the correct amount of benefits for each month that a household received an overpayment and subtract the correct amount from the amount actually received.

21. Title 7 of the CFR § 273.18 (a)(2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.

UPM § 7045.05 (A) (1) provides that the Department recoups from the assistance unit that received the overpayment.

22. UPM § 7005.25 provides that if the error is an overpayment, the Department recoups by one or more of the following methods, after discussing the overpayment with the assistance unit and obtaining an agreement from the unit if possible:

Grant reduction for SNAP or cash assistance overpayments, only if the assistance

unit is still receiving benefits; or

1. Installment payments by the assistance unit; or
2. Lump sum repayment by the assistance unit.

The Department properly informed the Appellant of the available recoupment methods.

23. Title 7 of the CFR § 273.18 (a) (1) (i) provides for claims against households and states that a recipient claim is an amount owed because of benefits that are overpaid.

UPM § 7045.30(A) (1) (a) provides for recoupment by grant reduction and states in part that if an overpayment was caused by administrative error or unintentional program recipient error and the assistance's unit's grant is \$10 or more, the grant reduction is the largest of either (1) the amount of reduction requested by the assistance unit, (2) \$10 or (3) 10% of the allotment rounded down to the nearest dollar. (b) if the amount of the assistance unit's allotment is less than \$10 prior to the calculation of grant reduction, the reduction is the full allotment and the issuance reduced to \$0.

UPM § 7045.30 (B) provides that for installment and other recoupment methods the monthly recoupment rate is at least the same amount which the Department could recoup through grant reduction.

The Department correctly determined that the Appellant was overpaid SNAP benefits in [REDACTED] and [REDACTED] of 2019 and that she has an obligation to repay the benefits even if the overpayments were caused by Department error.

The Department correctly determined that the Appellant is obligated to repay the \$967.00 in SNAP overpaid benefits she received for the period of [REDACTED] 2019, through [REDACTED], 2019.

DECISION

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


Shelley Starr
Hearing Officer

pc: Musa Mohamud, DSS R.O. # 10, Hartford
Judy Williams, DSS R.O. # 10, Hartford
Jessica Carroll, DSS R.O. #10, Hartford
Jay Bartolomei, DSS R.O. #10, Harford
Garfield White, DSS R.O. # 10, Hartford

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.