

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

██████████
Request # 150578

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") reducing the Supplemental Nutrition Assistance Program ("SNAP") benefits from \$599.00 to \$385.00 effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the reduction of the SNAP benefits.

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

On ██████████ 2020, the Appellant requested the hearing to be rescheduled.

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

On ██████████ 2020, the Appellant requested the hearing to be rescheduled.

On [REDACTED] 2020, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2020.

On [REDACTED], 2020, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes ("Conn. Gen. Stat."), OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[REDACTED], Appellant
 Xiomara Natal, Department's Representative
 Princess O'Reggio, Department's Representative
 Carla Hardy, Hearing Officer

The hearing remained open for the submission of additional documentation from the Department.

Additional documentation was received. The hearing record closed on [REDACTED] 2020.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly reduced the SNAP benefits.

FINDINGS OF FACT

1. The Appellant's household consists of five members that include the Appellant; sons [REDACTED] and [REDACTED]; step-son [REDACTED]; and [REDACTED], the mother of his children. (Appellant's Testimony)
2. [REDACTED], [REDACTED], and [REDACTED] are disabled and receive Social Security Income ("SSI"). (Appellant's Testimony, Hearing Summary)
3. On [REDACTED], 2019, the Department received the Appellant's Periodic Report Form ("PRF"). (Exhibit 1: Case Notes, Hearing Summary)
4. Prior to [REDACTED], 2019, the Department's records indicated that [REDACTED] and [REDACTED] each received \$771.00 SSI per month. [REDACTED] SSI was incorrectly listed as \$313.50 monthly. (Exhibit 1; Exhibit 6: SDX Payment Information dated [REDACTED]/20; Hearing Summary)
5. On [REDACTED], 2019, the Department reviewed the Appellant's PRF. They updated the Appellant's case record to show that the three members receiving SSI were all receiving \$783.00 monthly effective [REDACTED] 2020. (Exhibit 1)
6. The Appellant's rent is \$1,200.00 monthly. He pays for gas heat. (Appellant's Testimony)

7. The Department used the Standard Utility Allowance (“SUA”) in the calculation of the Appellant’s SNAP benefits. (Department’s Testimony)
8. The Appellant’s household does not have any medical expenses in excess of \$35.00 per month. (Appellant’s Testimony)
9. The Appellant does not have monthly child support or dependent care expenses. (Appellant’s Testimony)
10. On [REDACTED] 2019, the Department issued a notice to the Appellant notifying him that the SNAP benefits are reduced to \$385.00 effective [REDACTED] 2020. (Exhibit 1; Exhibit 3A: NOA, [REDACTED]/20; Hearing Summary)
11. Effective [REDACTED] 2020, the gross SSI increased to \$783.00 monthly. (Exhibit 3A; Department’s Testimony)
12. [REDACTED] is not receiving the gross \$783.00 SSI due to an overpayment. (Appellant’s Testimony; Department’s Testimony)
13. On [REDACTED] 2020, the Appellant contacted the Department regarding the reduction of the SNAP. The Department corrected [REDACTED] SSI amount. [REDACTED] has a \$78.30 SSI overpayment and receives \$704.70 ($\$783.00 - \$78.30 = \704.70) net SSI each month. The Appellant’s SNAP benefit increased to \$421.00 effective [REDACTED] 2020. The Department issued a \$36.00 SNAP supplement for [REDACTED] 2020, bringing the Appellant’s SNAP benefit to \$421.00 ($\$385.00 + \$36.00 = \421.00). (Exhibit 1; Post Hearing Exhibit 11: SDX Payment Information, [REDACTED]/20; Hearing Summary)
14. The issuance of this decision is timely under the Code of Federal Regulations (“C.F.R.”) § 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 was due on [REDACTED] 2020. However, the hearing, which was originally scheduled for [REDACTED] 2020, was rescheduled for [REDACTED] 2020, and then again for [REDACTED], 2020, at the request of the Appellant, which caused a 40-day delay. Because this 40-day delay resulted from the Appellant’s request, this decision is not due until [REDACTED] 2020, and is therefore timely. (Hearing Record)

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 C.F.R. § 273.10(c)(1)(i) provides that for the purpose of determining the household’s eligibility and level of benefits, the state agency shall take into account

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

3. Title 7 C.F.R. § 273.10(c)(3)(i) provides for income averaging and states that income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households. When averaging income, the State agency shall use the household's anticipation of monthly income fluctuations over the certification period. An average must be recalculated at recertification and in response to changes in income, in accordance with § 273.12(c) and the State agency shall inform the household of the amount of income used to calculate the allotment. Conversion of income received weekly or biweekly in accordance with paragraph (c)(2) of this section does not constitute averaging.
4. Title 7 C.F.R. § 273.9(b)(2)(ii) provides in part that unearned income shall include, but not be limited to 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.

"The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

Uniform Policy Manual ("UPM") § 5050.13(A)(6) provides that benefits received from Social Security and Veterans' Benefits by any member of a Food Stamp (SNAP) unit is counted in the calculation of eligibility and benefits for the entire unit.

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.
5. The Department correctly included the household's SSI when it calculated eligibility for the SNAP.
6. Title 7 C.F.R, § 273.9(b)(5)(i) provides in relevant part, that income shall not include moneys withheld from an assistance payment, earned income, or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under paragraph (c) of this section.

UPM § 5050.66(A)(2) provides in relevant part that money withheld from TFA, AABD, General Assistance, SSI or SSA payments as recoupment of overpayments is excluded as income for SNAP depending upon the type of overpayment involved. Money withheld as recoupment of an overpayment, which occurred due to a Non-IPV situation or administrative error is excluded when calculating SNAP eligibility and benefits.

7. The Department correctly excluded [REDACTED] \$78.30 SSI overpayment as monthly income.
8. Title 7 C.F.R. § 273.10(c)(1)(ii) provides in part that income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period.
9. Title 7 C.F.R. § 273.10(c)(2)(i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period.

UPM § 5025.05(b) provides:

1. If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.
2. If income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows:
 - a. If income is the same each week, the regular weekly income is the representative weekly amount;
 - b. If income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount;
 - c. If there has been a recent change or if there is an anticipated future change, the amount expected to represent future income is the representative weekly amount;
 - d. If income is received on other than a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered.

10. The Department correctly determined the Appellant's household's monthly gross income totals \$2,270.70 [(\$783.00 SSI + \$783.00 SSI) + (\$783.00 - \$78.30 SSI) = \$2,270.70].

11. Title 7 C.F.R. § 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 \$209.00 per month; {effective October 1, 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.

12. The Department correctly determined the Appellant's adjusted gross income equals \$2,061.70 [\$783.00 + \$783.00 + \$704.70 - \$209.00 - (Standard Deduction) = \$2,061.70].

13. Title 7 C.F.R. § 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;

14. Title 7 C.F.R. § 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.

15. The Standard Utility Allowance is \$736.00 effective October 1, 2019.

16. The Department correctly determined the Appellant's shelter costs equals \$1,936.00 (\$1,200.00 Rent + \$736.00 Standard Utility Allowance = \$1,936.00) per month.

17. Title 7 C.F.R. § 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 is revised annually effective October 1. (Maximum shelter hardship effective October 1, 2019, is \$569.00).

18. The Appellant's household contains disabled members. Therefore, there is no cap on the shelter hardship.

19. The Department correctly determined that the Appellant's shelter hardship is \$905.15.

20. Title 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

UPM § 6005(C) provides that in the SNAP, the amount of benefits is calculated by: (1) multiplying the assistance unit's applied income by 30%; and (2) rounding the product up to the next whole dollar if it ends in 1-99 cents; and (3) subtracting the rounded product from the Food Stamp standard of assistance for the appropriate unit size.

21. Effective [REDACTED] 2020, the Appellant's SNAP benefits are computed as follows:

| <u>SNAP BENEFIT CALCULATION</u> | |
|---|--------------------|
| <u>INCOME</u> | |
| Earned Income | \$0.00 |
| Less 20 percent | -\$0.00 |
| = Adjusted earned income | \$0.00 |
| + Unearned income | \$2,270.70 |
| = Total income | <u>\$2,270.700</u> |
| - Standard deduction | -\$209.00 |
| - Medical expenses | -\$0.00 |
| -Dependent care expenses | -0.00 |
| =Adjusted gross income | \$2,061.70 |
| <u>SHELTER COSTS</u> | |
| Rent | \$1,200.00 |
| + SUA | <u>\$736.00</u> |
| Total shelter costs | \$1,936.00 |
| <u>SHELTER HARDSHIP</u> | |
| Shelter costs | \$1,936.00 |
| Less 50% of adjusted gross income | <u>-\$1,030.85</u> |
| = Total shelter hardship (max \$569 if not disabled or elderly) | \$905.15 |
| <u>ADJUSTED NET INCOME</u> | |
| Adjusted gross income | \$2,061.70 |
| Less shelter hardship | <u>-\$905.15</u> |
| Net Adjusted Income (NAI) | \$1,156.55 |
| <u>BENEFIT CALCULATION</u> | |
| Thrifty Food Plan for five persons | \$768.00 |
| Less 30% of NAI (rounded up to nearest whole dollar) | <u>-\$347.00</u> |
| SNAP award | \$421.00 |

22. On [REDACTED] 2020, the Department incorrectly determined the Appellant eligible for a monthly \$385.00 SNAP benefit.

23. On [REDACTED] 2020, the Department corrected an error and correctly determined the Appellant eligible for \$421.00 in SNAP benefits effective [REDACTED] 2020.

DECISION

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


Carla Hardy
Hearing Officer

Pc: Fred Presnick, Yecenia Acosta, Tim Latifi, Xiomara Natal, Princess O'Reggio,
Department of Social Services, Bridgeport 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.