

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

CLID # ██████████  
Request # 150852

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action advising her that she was not eligible for Supplemental Nutrition Assistance Program (“SNAP”) benefits because her income exceeded the allowable limit.

On ██████████ 2020, the Appellant requested an administrative hearing because she disagrees with the amount of 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 a continuance of the hearing, which OLCRAH granted.

On ██████████, 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 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], the Appellant  
 [REDACTED], the Appellant's son and Authorized Representative  
 Sreevibya Subramanian, Interpreter  
 Javier Rivera, Department's representative & hearing liaison  
 Maureen Foley-Roy, Hearing Officer

ਕਿਰਪਾ ਕਰਕੇ ਪੰਜਾਬੀ ਵਿੱਚ ਅਨੁਵਾਦਿਤ ਬੰਦ ਕੀਤੇ ਫੈਸਲੇ ਨੂੰ ਦੇਖੋ।

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision that the Appellant was ineligible for SNAP benefits was correct.

### **FINDINGS OF FACT**

1. In 2008, the Appellant entered the United States as a lawful permanent resident, sponsored by her brother, who lives in Michigan. (Authorized Representative's testimony)
2. The Appellant's brother/sponsor gave her a few hundred dollars during festival time for the first two years that she lived in the United States. It amounted to a total of \$400 and she has not received any assistance from him since then. (Authorized Representative's testimony)
3. The Appellant is 68 years old and she has no source of income. She receives medical assistance from the Department. The Appellant lives with her son, who supports her. (Authorized Representative's testimony)
4. The Appellant does not pay rent to her son. (Exhibit 4: Federal SNAP Income Test)
5. On [REDACTED] 2019, the Appellant applied for SNAP benefits for herself. (Exhibit 1: Case Notes)
6. On [REDACTED] 2019, as part of the application process, the Appellant signed a W727-Sponsors' of Non-Citizens Information sheet to provide the Department with the name, address, employer and gross monthly income of her brother/sponsor. (Exhibit 5: W727-Sponsor of Non-Citizen Information Sheet)
7. The Department obtained the wages of the brother/sponsor from the Work Number Social Services Verification. (Exhibit 6: The Work Number Social Services Verification with wages as of [REDACTED] 2019)

8. The Appellant's brother/sponsor is employed by General Motors. He was paid \$3657.14 on [REDACTED] 2019, \$13,437.73 on [REDACTED] 2019, \$1,591.70 on [REDACTED] 2019, \$2,087.45 on [REDACTED] 2019 and \$2,261.83 on [REDACTED] 2019. He was paid \$4,387.03 on [REDACTED] 2019 and \$3,057.59 on [REDACTED] 2019. He did not receive any payment on [REDACTED] 2019. In 2018, the brother/sponsor earned \$108,815.22 and as of [REDACTED] 2019, he had earned \$117,028 for 2019. (Exhibit 6)
9. The Appellant's brother/sponsor does not have a spouse or dependent children. (Exhibit 5)
10. On [REDACTED], 2019, the Department sent a notice to the Appellant advising that she was not eligible for SNAP benefits because her income exceeded the limit for the program. (Exhibit 2 : Notice of Action send [REDACTED], 2019)
11. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which states that a decision must be reached and the household notified within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2020. The Appellant requested a continuance of the hearing. Thus, this decision which was due not later than [REDACTED] 2020 and is therefore 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") § 273.4(a)(1) provides for household members meeting citizenship or alien status requirements.
3. "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)).
4. UPM § 3005.06 provides that in order to receive food stamp benefits, an individual must be either a citizen or an eligible non-citizen.
5. Title 7 CFR § 273.4(a)(6) provides for individuals who are both a qualified aliens as defined in paragraph (a)(6)(i) of this section and an eligible aliens as defined in paragraph (a)(6)(ii) or (a)(6)(iii) of this section.

6. Title 7 CFR § 273.4(a)(6)(i)(A) provides that a qualified alien is one who is an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act. (“INA”).
7. Title 7 CFR § 273.4(a)(6)(iii)(A) provides in part that an alien age 18 or older lawfully admitted for permanent residence under the INA must be in a qualified status for 5 years before being eligible to receive food stamps.

**The Department correctly determined that the Appellant is a qualified alien because she was admitted into the U.S. as a Lawful Permanent Resident.**

**The Department correctly determined that the Appellant is an eligible alien because she has been in qualified status (residing in the U.S.) for more than 5 years.**

8. 7 CFR § 273.4(c)(2) provides that for purposes of determining the eligibility and benefit level of a household of which an eligible sponsored alien is a member, the State agency must deem the income and resources of sponsor and the sponsor's spouse, if he or she has executed INS Form I-864 or I-864A, as the unearned income and resources of the sponsored alien. The State agency must deem the sponsor's income and resources until the alien gains U. S. citizenship, has worked or can receive credit for 40 qualifying quarters of work as described in paragraph (a)(6)(ii)(A) of this section, or the sponsor dies.
9. UPM § 5020.60 A 1 provides that the Department deems the income of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) to the non-citizen.

**The Department correctly determined that the income of the Appellant's sponsor must be deemed to the Appellant for the purposes of calculating her eligibility for SNAP benefits.**

10. Title 7 CFR § 273.4(c)(2) (i)(A) and (B) provide that the monthly income of the sponsor and sponsor's spouse (if he or she has executed INS Form I-864 or I-864A) deemed as that of the eligible sponsored alien must be the total monthly earned and unearned income, as defined in §273.9(b) with the exclusions provided in §273.9(c) of the sponsor and sponsor's spouse at the time the household containing the sponsored alien member applies or is recertified for participation, reduced by: a 20 percent earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse and an amount equal to the Program's monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for Federal income tax purposes.
11. UPM § 5020.60 B 2,3, and 4 provide that the amount of income deemed from a sponsor and the sponsor's spouse is calculated in the following manner; that self-employment earnings are adjusted by subtracting the applicable self-employment expenses, that the gross monthly earned income amount is reduced by 20% to allow for personal work expenses; and that the remaining earnings plus gross unearned

income is totaled and reduced by the Supplemental Nutrition Assistance Program Gross Income Limit as determined by the family size of the sponsor and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes.

12. Title 7 CFR § 273.9(a)(1)(i) provides that the gross income eligibility standards for the Food Stamp Program for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.
13. The SNAP gross income limit (130% of the Federal income poverty level for a family of two persons) is \$1832 per month effective October 1, 2019.
14. 7 CFR § 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.
15. UPM § 5025.05 B 2 provides that if income is received other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount.
16. UPM § 5025.05 B 2 b provides that if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount.

**The Appellant's sponsor's gross earnings were \$16,383.25 per month. (\$3,657.14 + \$13,437.73 + \$1,591.70 + \$2,087.45 + \$2,261.83 + \$4,387.03 + \$0 + \$3057.59 = \$30,487.47/8 weeks = \$3,810.05 x 4.33)**

**The correct amount of income deemed to the Appellant from her sponsor is \$11,274.60 per month. (\$16,383.25 - \$3,276.64 (20%) - \$1832 (130% of the Federal Poverty Limit for a household of 2 persons) = \$11,274.60 per month.**

17. Title 7 CFR § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.
18. 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 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.

18. The Department correctly determined the Appellant's adjusted gross income was \$11,107.60 (\$11,274.60 [deemed income from sponsor] - \$167 [standard deduction]).

19. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.

20. 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: 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.

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

22. 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 standard utility allowance is \$708 effective October 1, 2015.)

23. The Appellant has no rent or utility expenses.

24. The Appellant's shelter hardship was \$0.

25. The Appellant's net applied income was \$11,107.60 per month.

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

27. 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.

28. The Department correctly determined that 30% of the Appellant's net adjusted income, rounded up, was \$3,332.28.

29. Effective [REDACTED] of 2019, the Appellant's SNAP benefits are computed as follows:

**SNAP BENEFIT CALCULATION**

<u>INCOME</u>	
Earned Income	\$0
Less 20%	-\$
<b>Total</b>	<b>\$</b>
Plus Unearned Income	+\$11,274.60

(Deemed from Sponsor)	
<b>Total</b>	\$11,274.60
Less standard deduction	<u>\$167</u>
<b>Adjusted gross income</b>	\$11,107.60
<u>SHELTER COSTS</u>	
Rent	\$0
SUA	<u>+\$0</u>
<b>Total shelter costs</b>	\$0
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$0
Less 50% of adjusted gross income	
<b>Total shelter hardship</b>	\$0 (Can not exceed \$459 unless elderly or disabled)
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$11,107.60
Less shelter hardship	<u>-\$0</u>
<b>Net Adjusted Income (NAI)</b>	\$11,107.60
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 1 Persons	\$194
Less 30% of NAI	<u>-\$3,332.28</u>
<b>SNAP award</b>	\$0

**The Department correctly determined that the Appellant's net income exceeded the allowable limit and that she is ineligible for SNAP benefits.**

### DISCUSSION

The Appellant entered the United States and was sponsored by her brother. The regulations require that her sponsor's income must be considered in determining the Appellant's eligibility for SNAP benefits.

There are provisions in the regulations for sponsored individuals who claim they do not receive support from their sponsors. The Appellant claims that she has not received any assistance from her brother/sponsor in several years and that she is indigent.

During the hearing, she was advised of the provisions and the process for claiming indigence to have her eligibility determined without her sponsor's income. The Department was incorrect when it failed to explain those options at the time the Appellant applied. However, as the Appellant opted not to claim indigence, it does not affect the outcome of her eligibility determination.



**DECISION**

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

*Maureen Foley-Roy*

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Maureen Foley-Roy  
Hearing Officer

### **RIGHT TO REQUEST RECONSIDERATION**

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

### **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.