

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 # 150968

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████

**PROCEDURAL BACKGROUND**

On J ██████████ 2020, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") reducing her Supplemental Nutrition Assistance Program ("SNAP") benefits to \$54.00 effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the amount her 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, 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  
Javier Rivera, Department's Representative  
Carla Hardy, Hearing Officer

### STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant eligible for a \$54.00 monthly SNAP benefit.

### FINDINGS OF FACT

1. Prior to [REDACTED] 2019, the Appellant was eligible for a \$141.00 monthly SNAP benefit. (Department's Testimony)
2. The Appellant's household consists of three members, the Appellant, her spouse, and their 12 year old child. None of the household members are disabled or over the age of 60. (Appellant's Testimony)
3. On [REDACTED] 2019, the Department received the Appellant's SNAP renewal form. (Exhibit 1: Case Notes)
4. On [REDACTED], 2019, the Department reviewed the Appellant's renewal form and sent a request for verification of the Appellant's earnings. They also requested proof of her spouse's income and proof of the child support order. (Exhibit 1: Case Notes)
5. The Appellant's spouse pays child support for a child who does not reside in the Appellant's home. The Department verified through CCSES, the Department's child support data base, that her spouse paid the following amounts in child support:

Month	Amount
[REDACTED] 2019	\$600.00
[REDACTED] 2019	\$600.00
[REDACTED] 2019	\$750.00

(Exhibit 1: Case Notes; Department's Testimony, Appellant's Testimony)

6. The Department calculated the spouse's monthly child support payments equaled \$650.00  $[(\$600.00 + \$600.00 + \$750.00)/3 = \$650.00]$ . (Department's Testimony)
7. The Appellant's spouse receives \$471.00 weekly in Worker's Compensation benefits. (Exhibit 1: Case Notes; Appellant's Testimony)
8. The Appellant works as a hairdresser. (Exhibit 5: Renewal Form)
9. The Appellant works at [REDACTED] ("the salon"). The owner of the Salon pays her \$10.00 per hour based on the number of hours weekly that she works. The Appellant supplied a letter from the owner of the salon stating, "She is soley [sic] responsible for taking out her own taxes." The salon owner provided the following schedule that the Appellant worked:



Week	Hours Worked
██████████/19 – ██████████/19	15
██████████/19 – ██████████/19	28
██████████19 – ██████████/19	30
██████████/19 – ██████████/19	25

(Exhibit 3: Letter from ██████████ ██████████/19)

10. On ██████████ 2019, the Department calculated the Appellant's wages equaled an average of \$245.00 [ $\$150.00$  (██████████) +  $\$280.00$  (██████████) +  $\$300.00$  (██████████) +  $\$250.00$  (██████████)]/4 = \$245.00] weekly based on the statement that was received from the salon. The Department calculated the Appellant eligible for \$54.00 in SNAP for ██████████ 2020. (Exhibit 1: Case Notes; Department's Testimony)
11. The Department issued to the Appellant an \$87.00 SNAP underpayment for ██████████ 2020, because she received \$54.00 and should have received \$141.00 due to the adverse action period. (Department's Testimony)
12. The Appellant's SNAP benefits changed from \$141.00 to \$54.00 monthly because the Department changed the Appellant's income type from self-employment to being an employee of the salon. (Department's Testimony)
13. The Appellant does not have any payroll taxes taken out of her weekly check from the salon. (Exhibit 3: Letter from the salon, ██████████/19)
14. The Appellant received an IRS form 1099 from the salon for income received from the salon in 2018 and will receive a 1099 this year for income received in 2019. (Appellant's Testimony)
15. The Appellant's rent is \$895.00 per month and she pays for oil heat. (Appellant's Testimony)
16. The Appellant qualifies for the Standard Utility Allowance ("SUA"). (Department's Testimony)
17. 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 ██████████ 2020. Therefore this decision is due not later than ██████████ 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 26 of the Code of Federal Regulations (“C.F.R.”) Section 1.1402(b)-1(a) provides in general, except for the exclusions in paragraphs (b) and (c) of this section and the exception in paragraph (d) of this section, the term “self-employment income” means the net earnings from self-employment derived by an individual during a taxable year.
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. Uniform Policy Manual (“UPM”) Section 5000.01 defines self-employment income as the total amount of income derived from a self employment enterprise before self-employment expenses are deducted.
5. Title 26 C.F.R. § 1.1402(c)-1 provides in order for an individual to have net earnings from self-employment, he must carry on a trade or business, either as an individual or as a member of a partnership. Except for the exclusions discussed in §§1.1402(c)-2 to 1.1402(c)-7, inclusive, the term “trade or business”, for the purpose of the tax on self-employment income, shall have the same meaning as when used in section 162. An individual engaged in one of the excluded activities specified in such sections of the regulations may also be engaged in carrying on activities which constitute a trade or business for purposes of the tax on self-employment income. Whether or not he is also engaged in carrying on a trade or business will be dependent upon all of the facts and circumstances in the particular case. An individual who is a crew leader, as defined in section 3121(o) (see such section and the regulations thereunder in part 31 of this chapter (Employment Tax Regulations)), is considered to be engaged in carrying on a trade or business with respect to services performed by him after 1956 in furnishing individuals to perform agricultural labor for another person or services performed by him after 1956 as a member of the crew.
6. Title 7 C.F.R. § 273.9(b)(1) provides that income shall include: (i) all wages and salaries of an employee. (ii) the gross income from a self-employment enterprise, including the total gain from the sale of any capital good or equipment related to the business, excluding the costs of doing business as provided in paragraph (c) of this section.
7. The Department incorrectly determined that the Appellant is not carrying on a trade and does not have self-employment income.
8. Title 7 of the C.F.R. § 273.9(c) provides for income exclusions. Only the following items shall be excluded from household income and no other income shall be excluded. (1) any gain or benefit which is not the form of money payable directly to the household, including in-kind benefits and certain vendor payments. In-kind benefits are those for which no monetary payment is made on behalf of the

household and include meals, clothing housing, or produce from a garden. A vendor payment is a money payment made on behalf of the household by a person or organization outside the household directly to either the household's creditors or to a person or organization providing a service to the household.

9. Title 7 of the C.F.R. § 273.10(c)(1)(ii) & (c)(2)(I) provides for converting income into monthly amounts.
10. UPM 5025.15 provides that if self-employment income is received less frequently than monthly, the amount of monthly income is estimated by:
  - A. Analyzing the income over a 12-month period:
    1. When quarterly tax records are available, the annualized period consists of the 12 month period ending with the last complete calendar quarter prior to the time of determination;
    2. When quarterly tax records are available, the period will consist of the last calendar year prior to the time of determination; or
  - B. Dividing the total gross earnings by the number of months in which the self-employment income was earned if:
    1. The income was intended to meet the unit's needs for only part of the 12 – month period; or
    2. The self-employment has existed for less than 12 months.
11. Title 7 C.F.R. § 273.9(c)(19)(ii) provides in relevant part that that gross income from a self-employment enterprise, including the types of income referenced in paragraph (b)(1)(ii) of this section, must be calculated in accordance with § 273.11(a)(2).
12. Title 7 C.F.R. § 273.11(a)(2) provides for determining monthly income from self-employment. For the period of time over which self-employment is determined, the State agency must add all gross self-employment income (either actual or anticipated, as provided in paragraph (a)(1)(i) of this section) and capital gains (according to paragraph (a)(3) of this section), exclude the costs of producing the self-employment income (as determined in paragraph (a)(4) of this section, and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. The monthly net self-employment income must be added to any other earned income received by the household to determine total monthly earned income.
13. Title 7 C.F.R. § 273.11(b)(1) provides that allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor; stock; raw material; seed and fertilizer; payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; and taxes paid on income-producing property.

14. The Department incorrectly calculated the Appellant's income when they calculated her income as an employee of the salon and did not exclude the costs of producing the self-employment income.

**DECISION**

The Appellant's appeal is **REMANDED** to the Department for further action.

**ORDER**

1. The Department shall recalculate the Appellant's income by excluding the allowable costs of producing her self-employment income.
2. Compliance with this order shall be forwarded to the undersigned by [REDACTED] 2020.

  
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Carla Hardy  
Hearing Officer

Pc: Tricia Morelli, Javier Rivera, Department of Social Services, Manchester 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.