

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

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

████████████████████
Request # 151542

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) sent ██████████ (“the Appellant”) a notice indicating her Supplemental Nutrition Assistance Program (“SNAP”) benefits would close effective ██████████ 2020, due to her status as a student of higher education.

On ██████████ 2020, the Appellant requested an administrative hearing by telephone to contest the Department’s discontinuance of such 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 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

████████████████████
Christopher Filek, Department’s Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department was correct to discontinue the Appellant's SNAP assistance due to her student status.

FINDINGS OF FACT

1. On [REDACTED] 2020, the Department received the Appellant's SNAP renewal form ("W-1ER"). (Exhibit 1: W-1ER)
2. On [REDACTED] 2020, the Department conducted a SNAP telephone interview with the Appellant. The Appellant is a full-time student at [REDACTED] College taking four classes. (Exhibit 2: Case notes; Hearing summary)
3. On [REDACTED] 2020, the Department sent the Appellant a notice indicating her SNAP certification was completed and her ongoing SNAP benefit will close effective [REDACTED] 2020, due to not meeting the eligible student requirements. (Exhibit 3: Notice)
4. The Appellant is an assistance unit of one. (Hearing record; Appellant's testimony)
5. There were no types of income, earned or unearned, received by the Appellant when her recertification of assistance was completed. (Hearing record; Appellant's testimony)
6. The Appellant has her GED. (Appellant's testimony)
7. The Appellant is over the age of 17 and younger than 50. (Record; Appellant's testimony)
8. The Appellant is not caring for a minor child, receiving Temporary Assistance for Needy Families benefits or working an average of 20 hours per week. (Hearing record; Appellant's testimony)
9. The Appellant is not participating in a State or federally financed work study program or an on the job training program. (Appellant's testimony)
10. The Appellant did not indicate on her renewal form that she suffers from PTSD. (Exhibit 1; Appellant's testimony)
11. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations § 273.15 (c) (1) which provides that within 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency is notified of the decision. The Appellant requested an administrative hearing on [REDACTED] 2020; therefore, this decision was due no later than [REDACTED] 2020. (Hearing record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. “The department’s Uniform Policy Manual (“UPM”) is the equivalent of 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)).
3. Title 7 of the Code of Federal Regulations (“C.F.R.”) § 273.5 (a) provides that 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 (b) provides that 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 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 that 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. (i) This provision applies in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same food stamp household as the child. (ii) If no natural, adoptive or stepparent is in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse. (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.

UPM § 3020 provides that there is a technical eligibility requirement relating to student status only in the Food Stamp program. Other student requirements for AFDC (cross-reference 2500) are categorical requirements.

UPM § 3020.05 (C) provides for student enrollment. 1. A student is considered enrolled in school no earlier than the first day of the school term. 2. Normal vacations, holidays or recess do not interrupt student status. 3. A student who graduates, is suspended, expelled, drops out or does not intend to register for the next normal school term (excluding summer school) loses student status.

The Department correctly determined that the Appellant is a student at an institution of higher education attending half time or more.

The Department correctly determined that the Appellant is not employed a minimum of 20 hours per week.

The Department correctly determined that the Appellant does not meet the above conditions in order to be eligible for SNAP.


The Department correctly determined that the Appellant is ineligible for SNAP benefits due to her student status.

DISCUSSION

In order to receive SNAP benefits as a student enrolled in higher education, an individual must be working a minimum of 20 hours per week or otherwise be exempt from participation. In the present case, the Appellant is a full-time student who was not employed at the time of certification and not excused from meeting the criteria for participation in the SNAP. As a result, the Appellant is not eligible for SNAP.

DECISION

The Appellant's appeal is denied.



Christopher Turner
Christopher Turner
Hearing Officer

Cc: Brian Sexton, Operations Manager Middletown
Christopher Filek, DSS Middletown

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 if 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.