

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

Case ID # ██████████
Client ID # ██████████
Request # 151593

NOTICE OF DECISION
PARTY

████████████████████
████████████████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████ the Department of Social Services (the "Department") issued a Notification of Overpayment and Recoupment to ██████████ (the "Appellant"), indicating she had been overpaid in Supplemental Nutrition Assistance Program ("SNAP") benefits in the amount of \$3,700 and that she must repay the overpayment.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department's decision to recover 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 of the Connecticut General Statutes, inclusive, the Department held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant
██████████ Appellant's spouse
David Dumaine, Department's Representative
Marci Ostroski, Hearing Officer

The hearing officer held the hearing record open for the submission of additional evidence. The record closed on ██████████ 2020.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant was overpaid \$3,700 in SNAP benefits and that the Department's proposal to recover the overpaid benefits is correct.

FINDINGS OF FACT

1. On [REDACTED] 2017, the Appellant submitted a Periodic Report form ("PRF") for the SNAP program for household. The Appellant noted on the form that her spouse started full time employment on [REDACTED] 2017 and that "1st ½ paycheck will be received 5/9 and 5/16". (Exhibit 2: PRF printed [REDACTED] 2017 and signed [REDACTED] 2017)
2. The Appellant's household also received TFA benefits in 2017. (Hearing Record, Exhibit 8: Federal SNAP Income Test)
3. On [REDACTED] 2017, the Department reviewed the Appellant's PRF, waived the telephone interview and determined that there were no changes reported. (Exhibit 3: Case Notes)
4. On [REDACTED] 2017, the Department determined that the Appellant's spouse was employed full time and had submitted all necessary documentation. (Exhibit 3)
5. In 2017, the Appellant's household consisted of herself, her husband and their four children. No one in the household was over the age of 60. (Appellant's testimony and Exhibit 7: Redetermination form submitted [REDACTED] 2017)
6. In 2017, no one in the Appellant's household paid child support or a day care expense. (Appellant's testimony)
7. In 2017, the Appellant paid \$550 per month for rent and shared in utility expenses. (Appellant's testimony and Exhibit 7)
8. In the month of [REDACTED] 2017, the Appellant's spouse received the following gross wages: \$962.50 on [REDACTED] 2017, \$1276.00 on [REDACTED] 2017 and \$1210.00 on [REDACTED] 2017. The Appellant's spouse's year to date earnings as of [REDACTED] 2017 were \$4075.50. (Exhibit 5: Wage Stubs)
9. In the month of [REDACTED] 2017, the Appellant's spouse received the following gross wages: \$1111.00 on [REDACTED] 2017, \$726 on [REDACTED] 2017, \$1012 on [REDACTED] 2017 and \$1210 on [REDACTED] 2017 (Exhibit 5)
10. In the month of [REDACTED] 2017, the Appellant's spouse received \$5,989.50 in gross wages [\$995.50 on [REDACTED] 2017, + \$1,177.00 on [REDACTED] 2017, + \$1,045 on [REDACTED] 2017]

██████████ 2017, + \$1,375.00 on ██████████ 2017 + \$1,325.50 on ██████████ 2017].
(Exhibit 5)

11. In the month of ██████████ 2017, the Appellant's spouse received \$5,990.50 in gross wages [\$20,042 ██████████ 30, 2017 YTD - \$14,052.50 ██████████ 2017 YTD]. (Exhibit 5)

12. In the month of ██████████ 2017, the Appellant's spouse received \$3,564 in gross wages [\$23,606.00 ██████████ 2017 YTD - \$20,042 ██████████ 2017 YTD]. (Exhibit 5)

13. In the month of ██████████ 2017, the Appellant's spouse received \$5,062.00 in gross wages [\$979.00 on ██████████ 2017, + \$1,243.00 on ██████████ 2017, + \$1,228.50 on ██████████ 2017, + \$896.50 on ██████████ 2017 + \$715.00 on ██████████ 2017]. (Exhibit 5)

14. In the month of ██████████ 2017, the Appellant's spouse received \$3,333.00 in gross wages [\$1,243.00 on ██████████ 2017, + \$1,210.00 on ██████████ 2017, + \$880.00 on ██████████ 2017]. (Exhibit 5)

15. On ██████████ 2017, the Appellant submitted a redetermination form and again reported that her husband was employed at ██████████ beginning on ██████████ 2017, earning \$22 hourly approximately 45 hours per week. (Exhibit 7)

16. On ██████████ 2017, the Department reviewed the redetermination form and conducted a telephone interview. The Department determined at that time that the Appellant's household was over the income limit and requested pay stubs from ██████████ 2017 through ██████████ of 2017. (Exhibit 3 and Exhibit 4: W1348 sent ██████████ 2020)

17. On ██████████ 2018, the Appellant submitted pay stubs in response to the Department's request. (Exhibit 6: Email from Patrick Hearn dated ██████████ 2020)

18. The Appellant received the following SNAP benefits:

██████████	██████████ 2017	\$925.00
██████████	██████████ 2017	\$925.00
██████████	██████████ 2017	\$925.00
██████████	██████████ 2017	\$925.00

(Ex. 1: Notification of Overpayment and Recoupment, Exhibit 9: ██████████ 2017 benefit listing)

19. The Department determined that the Appellant was eligible for the following SNAP benefits:

	██████████ 2017	\$0.00
	██████████ 2017	\$0.00
	██████████ 2017	\$0.00
	██████████ 2017	\$0.00

(Ex. 1: Notification of Overpayment and Recoupment)

20. The Department calculated overpayments totaling \$3,700.00 (\$925.00 x 4 months = \$3,700.00). (Ex. 1: Notification of Overpayment and Recoupment)

21. On ██████████ 2020, the Department issued a Notification of Overpayment and Recoupment advising the Appellant that she was overpaid \$3,700 in SNAP benefits for the months of ██████████ through ██████████ of 2017 and that she must repay such benefits. (Exhibit 1)

22. 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 requested for a fair hearing. The Appellant requested an administrative hearing on ██████████ 2020. The hearing record, which was anticipated to close on ██████████ 2020, did not close until ██████████ 2020 due to the submission of additional evidence. Due to the eight day delay in the closing of the hearing record, the decision is not due until ██████████ 2020 and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section § 17b-2 of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
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") § 273.2 (j) (2) (E) (ii) provides the State agency, at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food Stamp Act of 2008: (A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in

Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.

4. Title 7 of the CFR § 273.9 (a) provides 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)).
5. Title 7 of the CFR § 273.9(b) provides that household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.
6. Title 7 of the CFR § 273.9 (b)(1) provides earned income shall include: (i) All wages and salaries of an employee
7. "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)).
8. Uniform Policy Manual ("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.
9. The Department correctly determined that the Appellant was receiving earned income from employment beginning in [REDACTED] of 2017.
10. Title 7 of the CFR § 273.10 (c)(1)(ii) & (c)(2)(i) provides for converting into monthly amounts.
11. 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.
12. The Department correctly determined that the Appellant's earnings must be included when calculating the Appellant's SNAP benefits.
13. UPM Section 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 or SSI.

14. UPM § 5520.40 provides that income eligibility for the SNAP program is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for Temporary Family Assistance ("TFA") (including diversion assistance), Aid to Families with Dependent Children ("AFDC"), Aid to the Aged, Blind and Disabled ("AABD"), General Assistance ("GA"), State Administered General Assistance ("SAGA"), refugee assistance or Supplemental Security Income ("SSI").

A. Gross Income Eligibility Test

1. 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.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:
 - a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.
 - b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.

B. Applied Income Eligibility Test

1. 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.
2. 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 Stamps benefits;
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.

C. Categorical Eligibility Test

Those assistance unit's which qualify as categorically eligible are not subjected to gross or applied income eligibility tests.

15. The Assistance unit did not qualify as categorically eligible in the overpayment months because the household's earned income exceeded TFA income limits and also did not have any elderly or disabled members.
16. The assistance unit is subject to the gross and applied income tests.
17. Effective June 19, 2009, the Department implemented SNAP changes referred to as Expanded Categorical Eligibility. Effective July 1, 2009, the gross income limit for the SNAP increased to 185% of the Federal Poverty Level for SNAP households that do not contain an elderly or disabled household member.
18. Effective October 1, 2016 to September 30, 2017, 185% of the FPL for a household of six individuals under ECE is \$5,023.00. Effective October 1, 2017, 185% of the FPL for a household of six individuals under ECE is \$5,082.00
19. The Appellant's gross income exceeded 185% of the FPL in the months of [REDACTED] and [REDACTED] of 2017.

The Department correctly determined that the Appellant was ineligible for SNAP benefits in the months of [REDACTED] and [REDACTED] of 2017 because the household's gross income exceeded the allowable limit.

20. 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 \$228.00 per month; {effective October 2017}

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.

21. UPM 5035.15(B) provides The total amount of monthly income earned by the assistance unit members, including that derived from self-employment, is adjusted by subtracting 20% for personal employment expenses. There are no other deductions applied exclusively to earned income.
22. The Department correctly applied the standard deduction for a household of six and correctly allowed the 20% deduction for earned income.
23. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.
24. 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;
25. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.
26. 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

27. The Department correctly determined that the Appellant's rent was \$550.00 and allowed the Standard Utility Allowance of \$728.00.

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

29. 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.

30. Effective [REDACTED] 2017, The Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

INCOME	
Earned Income	\$3564.00
Less 20%	712.80
Total	\$ 2851.20
Plus Unearned Income	\$908
Total	\$3759.20
Less standard deduction	<u>\$228.00</u>
Adjusted gross income	\$3531.20
SHELTER COSTS	
Rent	\$550
SUA	\$728.00
Total shelter costs	\$1278.00
SHELTER HARDSHIP	
Shelter costs	\$1278.00
Less 50% of adjusted gross income	<u>\$1765.60</u>
Total shelter hardship	\$0.00 (Can not exceed \$535 unless elderly or disabled)

<u>ADJUSTED</u> <u>NET</u>	
<u>INCOME</u>	
Adjusted gross income	\$3531.20
Less shelter hardship	<u>-\$0.00</u>
Net Adjusted Income (NAI)	\$3531.20
<u>BENEFIT</u>	
<u>CALCULATION</u>	
Thrifty Food Plan for 6 Members	\$913.00
Less 30% of NAI	<u>-</u>
	<u>\$1059.00</u>
SNAP AWARD	\$0.00

31. Effective [REDACTED] 2017, The Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

<u>INCOME</u>	
Earned Income	\$5062.00
Less 20%	<u>1012.40</u>
Total	\$ 4049.60
Plus Unearned Income	\$908
Total	\$4957.60
Less standard deduction	<u>\$228.00</u>
Adjusted gross income	\$4729.60
<u>SHELTER COSTS</u>	
Rent	\$550
SUA	<u>\$728.00</u>
Total shelter costs	\$1278.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1278.00
Less 50% of adjusted gross income	<u>\$2364.80</u>
Total shelter hardship	\$0.00 (Can not exceed \$535 unless elderly or disabled)
<u>ADJUSTED</u> <u>NET</u>	
<u>INCOME</u>	
Adjusted gross income	\$4729.60
Less shelter hardship	<u>-\$0.00</u>
Net Adjusted Income (NAI)	\$4729.60

<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 6 Members	\$913.00
Less 30% of NAI	-
	<u>\$1418.00</u>
SNAP AWARD	\$0.00

32. The Appellant's net adjusted income exceeded the applied income limit of \$2,747.00 for an assistance unit of six in [REDACTED] 2017 through [REDACTED] 2017.

The Department correctly determined that the Appellant was ineligible for SNAP benefits in the months of [REDACTED] and [REDACTED] of 2017 because the household's net income exceeded the allowable limit.

33. 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

34. 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.

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

36. 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.

37. The SNAP overpayments are considered agency error in nature and must be repaid.

38. UPM § 7045.10(A) provides that the Department recoups an overpayment or that part of an overpayment that occurs within the following periods. 1. The Department recoups an overpayment caused by administrative error if the overpayment occurred no earlier than 12 months prior to the month the Department discovers it.

39. The Department correctly proposed recoupment of the SNAP overpayment as it was discovered in [REDACTED] of 2017 which was within 12 months of the overpayment occurrence.


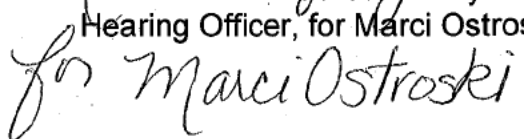
40. Title 7 of the CFR §273.18 (c)(1) (A) and (C) provide that the actual steps for calculating a claim of overpayment are to determine the correct amount of benefits for each month that a household received an overpayment and subtract the correct amount from the amount actually received.

41. 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.
42. 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.
43. The Department correctly determined that the Appellant was overpaid SNAP benefits and that she has an obligation to repay such benefits for the months of [REDACTED] 2017 through [REDACTED] 2017.

The Department correctly determined that the Appellant was overpaid \$3,700.00 in SNAP payments and has an obligation to repay them.

DECISION

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


Maureen Foley Roy,
Hearing Officer, for Marci Ostroski


Tricia Morelli, Operations Manager Manchester Regional Office
David Dumaine, Fair Hearing Liaison, Manchester Regional 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, law, and 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.