

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

██████████ 2020
Signature confirmation

Case: ██████████
Client: ██████████
Request: 152180

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ (the “Appellant”) reducing her household’s Supplemental Nutrition Assistance Program (“SNAP”) benefits from \$157.00 to \$113.00 per month, effective ██████████ 2020.

On ██████████ 2020, the Appellant filed an online request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”).

On ██████████ 2020, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for ██████████ 2020. The OLCRAH granted the Appellant’s requests for postponements.

On ██████████ 2020, in accordance with Sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, and Section 273.15 of Title 7 of the Code of Federal Regulations (“C.F.R.”), the OLCRAH held an administrative hearing. The following individuals participated:

██████████, Appellant
Garfield White, Department representative
Eva Tar, Hearing Officer

The hearing record closed on ██████████ 2020.

STATEMENT OF ISSUE

The issue is whether on [REDACTED] 2020 the Department correctly determined the amount of SNAP benefits the Appellant's household was eligible to receive for the [REDACTED] 2020 service month.

FINDINGS OF FACT

1. The Appellant's two minor children live with the Appellant; there is no other adult or child living in the Appellant's home. (Appellant testimony)
2. The Appellant's rent equals \$1,000.00 per month with utilities not included. (Appellant testimony)
3. The Appellant is not employed. (Appellant testimony)
4. The Appellant's two minor children each receive \$783.00 (gross) per month in SSI [Supplemental Security Income] benefits. (Exhibit 1)
5. From [REDACTED] 2019 through [REDACTED], 2020, the Appellant received \$1,243.02 in child support as follows: \$441.70 ([REDACTED]), \$734.42 ([REDACTED]), and \$66.90 ([REDACTED]). (Exhibit 7)
6. When calculating a household's monthly SNAP benefits, the Department averages the three most recent, completed months' worth of child support received. (Department representative testimony)(Exhibit 1)
7. From [REDACTED] 2020 through [REDACTED] 2020, the Appellant did not receive child support. (Exhibit 7)
8. On [REDACTED] 2020, the Appellant reported to the Department that she had stopped receiving child support. (Exhibit 1)
9. On [REDACTED] 2020, the Department notified the Appellant in writing that her household was eligible for \$113.00 in SNAP benefits, effective [REDACTED] 2020. (Exhibit 2)
10. The Department made a mathematical error in the [REDACTED] 2020 SNAP calculation. (Department representative testimony)
11. On [REDACTED] 2020, the Appellant filed an online hearing request to dispute the Department's reduction in her household's SNAP benefits. (Hearing record)
12. On [REDACTED] 2020, the Appellant again began receiving child support. (Exhibit 7)
13. On [REDACTED] 2020, the Department notified the Appellant in writing that her household would be eligible for \$143.00 per month in SNAP benefits, effective [REDACTED] 2020. (Exhibit 4)

14. From [REDACTED] 2020 through [REDACTED] 2020, the Appellant received \$423.64 in child support. (Exhibit 7)
15. Title 7, Section 273.15 (c)(1) of the Code of Federal Regulations (“C.F.R.”) provides that “[w]ithin 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 are notified of the decision....” “The household may request and is entitled to receive a postponement of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. For example, if a State level hearing is postponed by the household for 10 days, notification of the hearing decision will be required within 70 days from the date of the request for a hearing.” 7 C.F.R. § 273.15 (c)(4).

The OLCRAH received the Appellant’s hearing request on [REDACTED] 2020, which ordinarily would have required the hearing to be held and a decision issued by [REDACTED] 2020. However, the OLCRAH granted the Appellant’s request for a postponement of 38 days to the initially scheduled hearing date of [REDACTED] 2020. The deadline for the decision therefore is extended for as many days as the hearing is postponed; this decision would have become due by [REDACTED] 2020. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

“The commissioner shall make periodic investigations to determine eligibility and may, at any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the ... supplemental nutrition assistance program....” Conn. Gen. Stat. § 17b-80 (a).

The Department had the authority, at any time, to modify the Appellant’s monthly SNAP benefit when it was necessary to carry out the provisions of the SNAP.

2. “The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified. (i) Spouses; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s)....” 7 C.F.R. § 273.1 (b)(1).

The Appellant’s household was a SNAP household of three.

3. “Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.” 7 C.F.R. § 273.9 (b).

“Unearned income shall include, but not be limited to: (i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI)...; (ii) ...; (iii) Support or alimony payments made directly to the household from nonhousehold members....” 7 C.F.R. § 273.9 (b)(2).

For the purposes of the SNAP, the SSI benefits issued to the Appellant's two minor children are included in the household's counted income.

For the purposes of the SNAP, the child support the Appellant received is included in the household's counted income.

4. Title 7, Section 273.10 (c)(1)(ii) of the Code of Federal Regulations provides:
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. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income....
7 C.F.R. § 273.10 (c)(1)(ii).

"Income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households...." "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...." 7 C.F.R. § 273.10 (c)(3)(i).

The Appellant's child support income fluctuated in the immediate 30-day period prior to the Appellant's [REDACTED] 2020 report to the Department.

The Department's use of an average of the prior three completed months of collected child support to represent the Appellant's anticipated unearned income from child support is reasonable.

On [REDACTED] 2020, the Department incorrectly calculated the Appellant's anticipated total monthly child support income to equal \$519.05.

The Appellant's anticipated monthly child support equaled \$414.34, the average of the three most recent, completed months' worth of child support received prior to the date of the Appellant's [REDACTED] 2020 report of an intermittent change in the child support income.

5. Title 7, Section § 273.9 (d)(1)(i) of the Code of Federal Regulations provides for a standard deduction for the 48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands.

The SNAP Standard Deduction is \$167.00 per month for a household of three, effective October 1, 2019.

For the purposes of the SNAP, the Appellant's household of three is eligible for the \$167.00 per month standard deduction.

For the █████ 2020 SNAP service month, the adjusted monthly gross income of the Appellant's household equaled \$1,813.34. [\$1,566.00 (SSI of two children) + \$414.34 (anticipated child support) - \$167.00 (standard deduction)]

6. Title 7, Section 273.10 (e) of the Code of Federal Regulations provides for calculating net income and benefit levels. Subsection (e)(1)(i) provides:

To determine a household's net monthly income, the State agency shall:

(A) Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income...

(B) ...

(C) Subtract the standard deduction.

(D) ...

(E) ...

(F) ...

(G) ...

(H) Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.

(I) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

7 C.F.R. § 273.10 (e)(1)(i).

“Excess shelter deduction. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) through (d)(5) of this section have been allowed. If the household does not contain an elderly or disabled member, as defined in §271.2 of this chapter, the shelter deduction cannot exceed the maximum shelter deduction limit established for the area....” 7 C.F.R. § 273.9 (d)(6)(ii).

The cap on shelter hardship for SNAP households containing no elderly or disabled members is \$569.00.

For the purposes of the SNAP, the Appellant's household is not subject to the shelter hardship cap, as the household contains disabled individuals.

7. “With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other

than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection..." 7 C.F.R. § 273.9 (d)(6)(iii)(A).

Effective October 1, 2019, the standard utility allowance ("SUA") in Connecticut equaled \$736.00 per month.

For the purposes of the SNAP, the monthly shelter costs of the Appellant's household equal \$1,736.00. [\$1,000.00 (rent) + \$736.00 (SUA)]

For the purposes of the SNAP, the Appellant's shelter hardship equals \$829.33. [\$1,736.00 (monthly shelter costs) minus \$906.67 (50% of adjusted gross income)]

- 8. Title 7, Section 273.10 (e)(4) of the Code of Federal Regulations addresses the Thrifty Food Plan and maximum SNAP allotments.

The Thrifty Food Plan for a qualified assistance unit of three in Connecticut with no applied income equals \$509.00 per month, effective October 1, 2019.

Title 7, Section 273.10 (e)(2)(ii)(A) of the Code of Federal Regulations provides:

Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways:

- (1) The State agency shall round the 30 percent of net income up to the nearest higher dollar; or
- (2) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting the 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

7 C.F.R. § 273.10 (e)(2)(ii)(A).

- 9. The Appellant's SNAP benefits for the [REDACTED] 2020 service month are computed as follows:

<u>SNAP BENEFIT CALCULATION</u>	
[REDACTED] 2020	
<u>INCOME</u>	
Unearned Income	+ 1,980.34
Less standard deduction	- 167.00
Adjusted gross income -	\$1,813.34
<u>SHELTER COSTS</u>	
Rent	+\$1,000.00

SUA	+ 736.00
Total shelter costs -	\$1,736.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,736.00
Less 50% of adjusted gross income	- 906.67
Total shelter hardship -	\$829.33
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1,813.34
Less shelter hardship	- 829.33
Net Adjusted Income (NAI) -	\$984.01
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for three	509.00
Less 30% of NAI (<i>rounded to nearest dollar</i>)	- 295.00
<u>SNAP BENEFITS -</u>	= \$214.00

The Appellant's household was eligible to receive \$214.00 in SNAP benefits for the [REDACTED] 2020 service month.

On [REDACTED] 2020, the Department incorrectly determined the amount of SNAP benefits the Appellant's household was eligible to receive for the [REDACTED] 2020 service month.

DISCUSSION

The issue of this administrative hearing was the Department's proposed reduction of the SNAP benefits of the Appellant's household from \$157.00 to \$113.00, effective [REDACTED] 2020, as memorialized in the Department's [REDACTED] 2020 *Notice of Action*. The Department admits that [REDACTED] 2020 calculation of the SNAP benefits contained a math error.

The Department's amended SNAP calculation as provided for the [REDACTED] 2020 administrative hearing contains additional error, as the Department's calculation subjected the Appellant's household to a shelter hardship cap of \$569.00.

The Appellant's household is not subject to the shelter hardship cap, as this household contains two disabled members. When the shelter hardship cap is removed from the SNAP calculation, this household's SNAP benefits increase.

The hearing officer recalculated the [REDACTED] 2020 SNAP benefits. The Appellant's household was eligible for \$214.00 in SNAP benefits, effective [REDACTED] 2020.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will update its records to show the household's total anticipated child support amount as equaling a total of \$414.34 per month—i.e., \$207.17 per month per minor child—effective [REDACTED] 2020.
2. The Department will recalculate the Appellant's SNAP benefits, removing the \$569.00 shelter hardship cap.
3. If it has not already done so, the Department will issue any SNAP underpayments to the Appellant to bring her household's total monthly SNAP benefits effective [REDACTED] 2020 up to \$214.00.
4. Within 14 calendar days of the date of this decision, or [REDACTED] 2020, documentation of compliance with this order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Garfield White, DSS-Hartford/Windsor
Jay Bartolomei, DSS-Hartford/Windsor
Musa Mohamud, DSS-Hartford/Windsor
Judy Williams , DSS-Hartford/Windsor
Jessica Carroll, DSS-Hartford/Windsor

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 Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

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. 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 his 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.