

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 # 152752

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued a notice of action to ██████████ (the “Appellant”) indicating that her Supplemental Nutrition Assistance Program (“SNAP”) benefits would be \$62.00 effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing by telephone to contest the Department’s calculation of her SNAP benefit.

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:

████████████████████ Appellant
████████████████████ Appellant’s Daughter and Representative
Javier Rivera, Department’s Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's SNAP benefit.

FINDINGS OF FACT

1. On [REDACTED] 2020, the Appellant submitted an online application for SNAP. (Exhibit 3: Application)
2. On [REDACTED] 2020, the Department conducted a telephone hearing with the Appellant and granted her a partial SNAP benefit of \$45.00 for [REDACTED] 2020 and \$68.00 for [REDACTED] 2020. (Exhibit 1: Case notes)
3. On [REDACTED] 2020, the Department removed the Appellant's medical expense credit as not being verified and issued the Appellant a notice indicating her SNAP benefit for [REDACTED] 2020 would be \$62.00. (Exhibit 1; Exhibit 2: Notice)
4. The Appellant (DOB [REDACTED]) alone comprises the assistance unit. (Record; Hearing summary)
5. The Appellant's SNAP certification period [REDACTED]20 to [REDACTED]/22. (Exhibit 2; Exhibit 8: SNAP income test)
6. The Appellant's gross monthly Social Security Disability Income ("SSDI") is \$1,270.00. (Record; Appellant's testimony)
7. There are no other types of income, earned or unearned, received by the Appellant. (Hearing record; Appellant's testimony)
8. The Appellant has a \$362.00 monthly rental obligation. (Record; Appellant's testimony)
9. The Department afforded the Appellant the Standard Utility Allowance. (Hearing summary)
10. The Appellant pays \$19.50 monthly or \$117.00 every six months for renters insurance. (Appellant's testimony)
11. The Appellant is a recipient of the Department's Medicare Savings Program. (Exhibit 2; Record; Appellant's testimony)
12. The Department credited the Appellant with a medical expense deduction of \$32.29 (\$67.00 - \$35.00) in the calculation of her SNAP benefit after her initial certification. (Exhibit 2; Department's representative's testimony)

13. The Appellant requests the Department adjust her SNAP amount due to her special diet needs. (Appellant's testimony)
14. At the hearing, the Appellant presented previously undisclosed medical bills to the Department's representative for his review. (Record)
15. The issuance of this decision is timely under the Title 7 of the Code of Federal Regulations ("C.F.R.") § 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 is 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. 7 C.F.R. § 273.9 (a) provides that participation in the Program shall be limited to those households whose income 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 that 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)).

7 C.F.R. § 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: (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.

The Department correctly extended categorical eligibility to the Appellant's household.

4. 7 C.F.R. § 273.9 (b) (2) (ii) addresses which types of unearned income are included in the calculation of the SNAP allotment, and provides that annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in §272.12; old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week shall be considered unearned income.

UPM § 5050.13 (A) (6) provides that benefits received from Social Security by any member of a SNAP assistance unit is counted in the calculation of eligibility and benefits for the entire unit.

The Department correctly determined that the Appellant's monthly gross unearned income is \$1,270.00.

5. 7 C.F.R. § 273.9 (d) (1) provides for the standard deduction.

UPM § 5045.15 (C) provides that 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 for a household of one.
{effective 10-01-19 to 9-30-20}
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")

7 C.F.R. § 273.9 (d) (3) provides for the excess medical deduction. That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in §271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. Allowable medical costs are: (i) Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional. (ii) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State. (iii) Prescription drugs, when prescribed by a licensed practitioner authorized under State law, and other over-the-counter medication (including insulin), when approved by a licensed practitioner or other qualified health professional. (A) Medical supplies and equipment. Costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible; (B) Exclusions. The cost of any Schedule I controlled substance under The Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and any expenses associated with its use, are not deductible. (iv) Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible. (v) Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend down expenses incurred by Medicaid recipients. (vi) Dentures, hearing aids, and prosthetics; (vii) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills. (ix) Reasonable cost of transportation and lodging to obtain medical treatment or services; (x) Maintaining an attendant, homemaker, home health aide, or child care services, housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one person benefit allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The State agency is only required to update the allotment amount at the next scheduled recertification; however, at their option, the State agency may do so earlier. If a household incurs attendant care costs that could qualify under both the medical deduction of §273.9(d)(3)(x) and the dependent care deduction of §273.9(d)(4), the costs may be deducted as a medical expense or a dependent care expense, but not both.

UPM § 5045.15 (D) provides the remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

The Department correctly applied the \$167.00 standard deduction to the Appellant's income of \$1,270.00 to reach \$1,103.00.

The Department correctly deducted \$32.29 (\$67.29 - \$35.00) in allowable medical expenses from the Appellant's income of \$1,103.00 to determine the Appellant's adjusted gross income of \$1070.71.

The Department correctly determined a special diet allowance is not permitted under the SNAP.

6. 7 C.F.R. § 271.2 provides the definition of an elderly or disabled member means a member of a household who: (1) Is 60 years of age or older; (2) Receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act; (3) Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act.

UPM § 5035.15 (F) (11) provides that for those units, which include elderly or disabled members, or units whose only elderly or disabled member has been disqualified, a shelter hardship deduction is allowed with no maximum limit.

The Department correctly determined the Appellant is eligible for an uncapped shelter deduction based on age and/or disability.

7. 7 C.F.R. § 273.9 (d) (6) (ii) provides for 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. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12-month period ending the previous November 30. FNS will notify State agencies of the amount of the limit. Only the following expenses are allowable shelter expenses: (A) Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments. (B) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

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.

The Department correctly determined that 50% of the Appellant's adjusted gross income is \$535.36 (\$1,070.71 * 0.50).

The Appellant is not eligible for a renter's insurance deduction as the insurance is not associated with the cost of homeownership.

8. 7 C.F.R. § 273.9(d) (6) (iii) provides for the Standard Utility Allowance ("SUA"). (A) 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. The LUA must include expenses for at least two utilities. However, at its option, the State agency may include the excess heating and cooling costs of public housing residents in the LUA if it wishes to offer the lower standard to such households. The State agency may use different types of standards but cannot allow households the use of two standards that include the same expense. In States in which the cooling expense is minimal, the State agency may include the cooling expense in the electricity component. The State agency may vary the allowance by factors such as household size, geographical area, or season. Only utility costs identified in paragraph (d)(6)(ii)(C) of this section must be used in developing standards.

UPM § 5035.15 (F) (6) provides that a SUA 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 Department correctly allowed the Appellant the SUA.

The Department determined the Appellant's shelter cost as \$1,215.00 (\$362.00 rent + \$117.00 renters insurance + \$736.00 SUA).

The Department determined the Appellant's shelter hardship as \$679.64 (\$1,215.00 - \$535.36).

The Department determined the Appellant's net adjusted income as \$391.07 (\$1,070.71 - \$679.64 shelter hardship).

The Appellant's shelter cost is \$1,098.00 (\$362.00 rent + \$736.00 SUA).

The Appellant's shelter hardship is \$562.64 (\$1,098.00 - \$535.36).

The Appellant's net adjusted income is \$508.37 (\$1,070.71 - \$562.64 shelter hardship)

9. 7 C.F.R. § 273.10 (e) (2) (ii) (A) 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.

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.

The Department incorrectly determined that 30% of the Appellant's net adjusted income, rounded up, was \$118.00 (\$391.07 * 0.30).

Thirty percent of the Appellant's net adjusted income, rounded up, is \$153.00 (\$508.07 * 0.30).

10. 7 C.F.R. § 273.10(e) (4) (i) provides for the Thrifty Food Plan (“TFP”) and Maximum Food Stamp Allotments. Maximum food stamp allotment level. Maximum food stamp allotments shall be based on the TFP as defined in §271.2, and they shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The TFP for Hawaii shall be the TFP for the 48 States and DC adjusted for the price of food in Honolulu. The TFPs for urban, rural I, and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I, and rural II Alaska as defined in §272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the cost of these TFPs may not exceed the cost of the highest TFP for the 50 States. The TFP amounts and maximum allotments in each area are adjusted annually and will be prescribed in a table posted on the FNS web site, at www.fns.usda.gov/fsp

UPM § 4535.10 (A) (1) provides that the Thrifty Food Plan represents the minimum food expenditure that is required to meet an assistance unit’s basic monthly nutritional requirements and the maximum amount of benefits available to a qualified assistance unit with no applied income.

UPM § 4535.10 (A) (2) provides that the Thrifty Food Plan standards vary according to the size of the assistance units and are uniform statewide for assistance unit of equal size.

UPM P-4535.10 provides the Thrifty Food Plan for a qualified assistance unit with no applied income for a household of one is \$194.00.

11. The Appellant’s [REDACTED] 2020 SNAP benefit as calculated by the Department:

SNAP BENEFIT CALCULATION

<u>UNEARNED INCOME</u>	
Social Security	\$1,270.00
Total Income	\$1,270.00
Less standard deduction	-\$167.00
Less medical deduction	-\$32.29
Adjusted Gross Income	=\$1,070.71
<u>SHELTER COSTS</u>	
Rent	\$362.00
Renters Insurance	\$117.00
SUA	\$736.00
Total shelter costs	\$1,215.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,215.00
Less 50% of adjusted gross income	<u>-\$535.36</u>
Total shelter hardship	\$679.64

	(Cannot exceed \$569 unless elderly or disabled)
NET ADJUSTED INCOME	
Adjusted gross income	\$1,070.71
Less shelter hardship	<u>-\$679.64</u>
Net Adjusted Income (NAI)	\$391.07
BENEFIT CALCULATION	
Thrifty Food Plan for 1 Person	\$194.00
Less 30% of NAI	<u>-\$118.00</u>
SNAP award	\$76.00

12. The Appellant's [REDACTED] 2020 SNAP benefit is computed as follows:

SNAP BENEFIT CALCULATION

UNEARNED INCOME	
Social Security	\$1,270.00
Total Income	\$1,270.00
Less standard deduction	-\$167.00
Less medical deduction	-\$32.29
Adjusted Gross Income	=\$1,070.71
SHELTER COSTS	
Rent	\$362.00
SUA	<u>\$736.00</u>
Total shelter costs	\$1,098.00
SHELTER HARDSHIP	
Shelter costs	\$1,098.00
Less 50% of adjusted gross income	<u>-\$535.36</u>
Total shelter hardship	\$562.64
	(Cannot exceed \$569 unless elderly or disabled)
NET ADJUSTED INCOME	
Adjusted gross income	\$1,070.71
Less shelter hardship	<u>-\$562.64</u>
Net Adjusted Income (NAI)	\$508.07
BENEFIT CALCULATION	
Thrifty Food Plan for 1 Person	\$194.00
Less 30% of NAI	<u>-\$153.00</u>
SNAP award	\$41.00

The Appellant is eligible for \$41.00 per month in SNAP benefits effective [REDACTED] 2020.

DISCUSSION

The Appellant was given a \$117.00 monthly renter's insurance deduction during her initial certification. The Appellant is not entitled to an insurance deduction as her renter's insurance is not associated with the cost of homeownership. This Department oversight resulted in a higher SNAP benefit than what the Appellant was entitled to.

DECISION

The Appellant's appeal is denied.

Christopher Turner

Christopher Turner
Hearing Officer

Cc: Tricia Morelli, Operations Manager Manchester
Javier Rivera, Department Representative

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 the 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.