

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

CL ID # ██████████  
Hearing Request #153193

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2020, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) stating that ██████████ (the “Appellant”) was entitled to \$37.00 in Supplemental Nutrition Assistance Program (“SNAP”) benefits effective for ██████████, 2020.

On ██████████ 2020, the Appellant requested an administrative hearing because she disagrees with the amount of 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, accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing via telephone conference. The following individuals participated with the hearing:

██████████, Appellant  
Christopher Filek, Department’s Representative  
Miklos Mencseli, Hearing Officer

**STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly calculated the Appellant’s monthly SNAP benefits.

### FINDINGS OF FACT

1. On [REDACTED], 2020, the Appellant submitted to the Department her Periodic Review Form (“PRF”) for SNAP benefits. (Summary, Exhibit 4: PRF with attachments)
2. The Appellant receives SNAP benefits for a household of one person. (Summary, Appellant’s Testimony)
3. The Appellant is [REDACTED] years old. (Appellant’s Testimony)
4. The Appellant is a recipient of SSA benefits.
5. The Appellant’s monthly Social Security Administration (“SSA”) Income is \$1,051.00. (Exhibit 4: PRF, Exhibit 2: Department’s SNAP Computation Sheet)
6. The Appellant pays \$0.00 per month for rent. (Appellant’s Testimony))
7. The Appellant pays \$46.60 plus \$5.00 installment fee quarterly for renters insurance. (Exhibit 4: Homesite Insurance statement)
8. The Appellant provided her [REDACTED] policy. Her yearly total is \$208.00 plus \$5.00 quarterly installment fee for a total of \$228.00 for the year. (Appellant’s Exhibit A)
9. The Department is crediting the Appellant the Standard Utility Allowance (“SUA”) for heat and utilities. (Exhibit 2: Department’s SNAP Computation Sheet)
10. The Appellant did report out of pocket medical expenses that she has to pay. (Exhibit 4, Exhibit 5: Medical Expenses, Appellant’s Testimony)
11. The Appellant provided receipts from [REDACTED], [REDACTED], [REDACTED] (6 pages), [REDACTED] (18 pages), [REDACTED] (16 pages), [REDACTED] (18 pages), [REDACTED] statement dated [REDACTED]-19, [REDACTED] dated [REDACTED]-19 and [REDACTED] statement dated [REDACTED]-19. (Exhibit 5: Medical Expenses)
12. The Department reviewed the medical expenses submitted. (Exhibit 3: Department’s Case Notes, Department’s Testimony)
13. The Appellant provided two letters from [REDACTED] regarding her medical condition, the pain associated with her condition, that she may benefit from medical marijuana and that the Appellant is on a program of dietary supplements and unprocessed foods. (Exhibit 6: Letter dated [REDACTED]19 Appellant Exhibit A)
14. The Department calculated SNAP benefits of \$37.00 for a household of one effective for [REDACTED], 2020. (Summary, Exhibit 1: NOA dated [REDACTED]-2020)

15. 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 fair hearing. The Appellant requested an administrative hearing on [REDACTED], 2020. Therefore, this decision is due not later than [REDACTED], 2020.

### **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.

“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 Maintenance*, 214 Conn. 601, 573 A.2d (1990)).

2. Title 7 CFR § 273.9 (b) (2) (i) (ii) provides payments from Social Security Benefits are treated as countable income in determine SNAP benefits.  
UPM 5050.13(A) (1)
3. The Department correctly determined that the Appellant’s gross monthly income from Social Security is \$1,051.00.
4. Title 7 of the Code of Federal Regulations (CFR) § 273.10(c)(1)(ii) & (c)(2)(i) provide for converting income into monthly amounts.

Uniform Policy Manual (UPM) § 5025.05(A) provides for converting income to monthly amounts and states:

1. Past Months

The Department uses the exact amount of the unit's available income received or deemed in the month.

Or

Uniform Policy Manual (“UPM”) § 5025(A)(2)(a)(b) provides the Department uses the best estimate of the amount of income the unit will have, if the exact amount is unknown. This estimate is based upon: information about what the unit received in similar past periods of time and a reasonable anticipation of what circumstances will exist to affect the receipt of income in future months.

5. The Department correctly determined that the Appellant’s monthly gross unearned income is \$1,051.00.
6. Title 7 CFR § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.
7. 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 \$167.00 per month; {effective 10-1-19}
  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.

8. The Department correctly applied the \$167.00 standard deduction to the total income of \$1051.00 to determine the amount of the Appellant's household adjusted gross income of \$884.00 (\$1,051.00 - \$167.00 equals \$884.00)

9. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.

10. 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;
- b. taxes, state and local assessments, and insurance on real property;
- c. the entire amount paid as a condominium fee;

11. The Appellant pays zero monthly rent.

12. The Appellant pays renters insurance, the yearly amount is \$208.00 + \$5.00 quarterly installment fee.

13. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.

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.

14. Effective October 1, 2019 the Standard Utility Allowance ("SUA") equals \$736.00.

15. The Department determined the Appellant's shelter costs were \$803.86.

16. Title 7 CFR § 273.9 (d) (3) provides for 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;
- (viii) Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;
- (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.

17. UPM 5035.15 E provides for medical expenses as deductions.

1. Members of the assistance unit who are elderly or disabled are allowed medical expenses as deductions.
2. An elderly or disabled assistance unit member who provides an estimate of the medical expenses he or she expects to incur over a certification period that does not exceed twelve months can choose to have medical expenses averaged over the certification period.
3. When the only elderly or disabled member of a unit of two or more persons is disqualified, the medical expenses of the disqualified person are either:
  - a. allowed as the unit's expenses, less \$35, when the disqualification is pursuant to an intentional program violation(IPV); or
  - b. no longer allowed as a deduction for the remaining unit members when the disqualification is pursuant to a reason other than IPV.
4. The incurred or anticipated medical expenses which may be deducted are limited to the following:
  - a. medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;
  - b. hospitalization or outpatient treatment, nursing care, and care in a long term care facility recognized by the State. These expenses include payments made by the assistance unit to a facility on behalf of someone who was an assistance unit member at the time of admission to facility;
  - c. prescription and nonprescription medications when prescribed or
  - d. purchase or rental of prescribed medical supplies and sick room equipment;
  - e. premiums for health and hospitalization insurance except for those which are written to provide lump-sum settlements in the event of death or dismemberment or to protect and maintain income;
  - f. premiums for Medicare under Title XVIII of the Social Security Act;
  - g. medical expenses paid by the applicant or recipient under Medicaid spenddown or cost-sharing requirements;

- h. dentures, hearing aids, and prosthetics;
  - i. securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;
  - j. eye glasses prescribed by physician skilled in eye disease or by an optometrist;
  - k. reasonable cost for transportation and lodging necessary to obtaining medical treatment or services;
  - l. services of an attendant, homemaker, home health aide, child care provider, or housekeeper necessitated by age, infirmity, or illness of a unit member. The amount of this expense includes an amount equal to the one-person coupon allotment if the assistance unit provides the majority of the person's meals.
5. When the assistance unit incurs an expense that qualifies as both a medical expense and as a dependent care expense, it is treated as a medical deduction.
6. Each assistance unit which qualifies to have medical expenses treated as deductions is responsible for meeting the initial \$35 of expenses each month.
7. Eligible residents of group homes who make a single payment for room, meals and medical expenses are allowed a deduction if the medical expense can be identified separately.
18. The Department correctly determined the Appellant's purchases of organic foods, supplements and vitamins are not allowed under the regulations for the SNAP program.
19. The Department previously allowed these deductions.
20. The Appellant has did provide medical bills that list patient responsibility (balances) that exceed \$35.00. The [REDACTED], [REDACTED] and [REDACTED] statement total more than \$35.00

### **DISCUSSION**

The Department reviewed the policy to determine what is considered an eligible medical expense deduction. The Department determined that the previously allowed deductions for organic foods, supplements and vitamins are not allowed under the regulations for the SNAP program. The Appellant provided two letters from physicians concerning her medical condition. The Appellant also stated her need for a special diet because of her medical condition in a letter she submitted.

The United States Department of Agriculture (USDA) which governs the Food Stamp program has issued a statement regarding this matter. The Food Stamp Act of 1977 prohibits State agencies from giving extra Food Stamps to cover the cost of special diet. The State cannot issue more Food Stamps because of a special diet due to a health condition or a disability. The Department does allow a therapeutic diet to be recognized



as a recurrent special need. In order to qualify for this special need one must be eligible for State Supplement cash assistance program. The Appellant can at any time submit an application for the program.


The Department needs to review the medical bills and recalculate the Appellant's shelter deduction.

**DECISION**

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

**ORDER**

1. The Department shall recalculate the Appellant's benefits effective for [REDACTED], 2020 forward.
2. The Department shall recalculate the Appellant's shelter deduction.
3. The Department shall determine if the medical bills from [REDACTED], [REDACTED] and [REDACTED] statement that have patient balances qualify as medical expenses.
4. The Department shall issue any underpayments due the Appellant.
5. No later than [REDACTED], 2020, the Department will provide to the undersigned proof of compliance with this order.

  
Miklos Mencseli  
Hearing Officer

C: Brian Sexton, Operations Manager, DSS R.O. # 50 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.

### **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 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.