

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

Client ID # ██████████
Request #153246

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) informing her that, based on its review of her renewal, her benefit from the Supplemental Nutrition Assistance Program (“SNAP”) was changing to \$359.00 per month beginning ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s determination of her monthly SNAP allotment.

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, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██, Appellant’s husband (her “Husband”), via telephone
Jacqueline Taft, Department’s representative, via telephone
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

1. The issue is whether the Department correctly determined the Appellant's monthly SNAP allotment.

FINDINGS OF FACT

1. The Appellant resides with her Husband and their three minor children. (Husband's testimony, Hearing Record)
2. The Appellant's Husband's immigration status is Lawful Permanent Resident ("LPR"). (Husband's Testimony, Hearing Record)
3. The Appellant's Husband acquired LPR status in [REDACTED] 2015. (Testimony, Hearing Record)
4. The Department previously determined that the Appellant's Husband was ineligible for SNAP due to his immigration status. (Hearing Record)
5. On [REDACTED], 2020, the Appellant submitted her SNAP renewal to the Department. (Hearing Record)
6. As of [REDACTED] 2020, the Appellant's Husband was not included in her SNAP household due to his immigration status. (Hearing Record)
7. As of [REDACTED] 2020, the Appellant's Husband had been living in the U.S. with LPR status for five years. (Hearing Record)
8. On [REDACTED] 2020, the Appellant's Husband came to the Department's office to conduct a SNAP interview on behalf of the Appellant, to report and confirm the household's circumstances for the renewal. (Hearing Record)
9. As of [REDACTED] 2020, one of the Appellant's children was receiving \$783.00 per month in Supplemental Security Income ("SSI") (Hearing Record, Husband's testimony)
10. As of [REDACTED] 2020, the Appellant's rent was \$1085.00 per month. (Hearing Record, Husband's testimony)
11. As of [REDACTED] 2020, the Appellant was responsible for the cost of utilities, including heat. (Hearing Record, Husband's testimony)
12. As of [REDACTED] 2020, the Appellant's Husband was employed by [REDACTED], Inc. (Hearing Record)

13. The Department subscribes to an employment verification service, *The Work Number*. According to verification from *The Work Number*, the Appellant's Husband was paid the following gross amounts on the following pay dates: [REDACTED] 2020 - \$394.62, [REDACTED], 2020 - \$394.62, [REDACTED], 2020 - \$394.62, [REDACTED], 2020 - \$394.62. (Ex. 4: *The Work Number* Income Report)
14. On [REDACTED] 2020, the Department sent the Appellant an NOA informing her that, based on the information collected at her renewal, her monthly SNAP allotment was changing to \$359.00 effective [REDACTED] 2020. (Ex.1: [REDACTED] 2020 NOA)
15. As of the date the Department completed the Appellant's renewal on [REDACTED] 2020, it determined that the Appellant's Husband was eligible for SNAP because he had lived in the U.S. for more than five years as an LPR, and determined that he was mandatory to be included in the Appellant's household. (Ms. Taft's testimony)
16. The [REDACTED] 2020 NOA indicated that the Appellant's Husband was included in the Appellant's SNAP household for [REDACTED] 2020, and that his wages from [REDACTED] were counted in the calculation of benefits. (Ex. 1)

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 in accordance with federal law.
2. "No person is eligible to participate in the Program unless that person is:...(6) An individual who is both a qualified alien as defined in paragraph (a)(6)(i) of this section and an eligible alien as defined in paragraph (a)(6)(ii) or (a)(6)(iii) of this section." Section 273.4(a) of Title 7 of the Code of Federal Regulations ("CFR")
3. "A qualified alien is: (A) An alien who is lawfully admitted for permanent residence under the INA..." 7 CFR § 273.4(a)(6)(i)
4. **The Appellant's Husband is a qualified alien because being admitted for Lawful Permanent Residence makes an individual a qualified alien. The Husband was lawfully admitted to the U.S. for permanent residence in [REDACTED] 2015.**
5. "The following qualified aliens, as defined in paragraph (a)(6)(i) of this section, must be in qualified status for 5 years before being eligible to receive SNAP benefits. The 5 years in qualified status may be either consecutive or nonconsecutive....(A) An alien age 18 or older lawfully admitted for permanent residence under the INA..." 7 CFR § 273.4(a)(6)(iii)

6. **Prior to [REDACTED] 2020, the Appellant's Husband was ineligible for SNAP, because he was a qualified alien but was not an eligible alien, because his time living in the U.S. was insufficient. After [REDACTED] 2020, he became an eligible alien pursuant to 273.4(a)(6)(iii), because, as of that month, he had been in qualified status as an LPR for 5 years.**
7. "A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:...(3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption." 7 CFR § 273.1(a)
8. "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..." 7 CFR § 273.1(b)
9. **As soon as the Appellant's Husband met the 5-year residency bar and became eligible for SNAP he was required to be included in the Appellant's household, because spouses are mandatory household members pursuant to the SNAP regulations.**
10. 7 CFR § 273.9(a) provides, in relevant part, as follows:
 - i. 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 Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).
11. **The Appellant's household contained a disabled SSI recipient member. The household was therefore not subject to the SNAP gross income eligibility standard.**
12. "Earned income shall include: (i) All wages and salaries of an employee...." 7 CFR § 273.9(b)(1)(i)

13. "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)..." 7 CFR § 273.9(b)(2)(i)
14. 7 CFR § 273.10(c)(1)(i) provides, in relevant part, as follows:
 - a. For the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account...any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period....In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average....
15. "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..." 7 CFR § 273.10(c)(1)(ii)
16. "Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15..." 7 CFR § 273.10(c)(2)
17. **The Appellant's Husband's income from employment at Amazon was properly anticipated by the Department by taking an average of his pays from the most recent 30 day period and converting the average to a monthly amount. His average weekly pay of \$394.62, multiplied by 4.3, equaled \$1,696.87.**
18. States may, at their option, extend categorical eligibility to households "in which all members receive or are authorized to receive non-cash or in-kind services" from a program that is funded in part with State money counted for MOE purposes under Title IV-A, if the program was designed to further either purposes one and two, or three and four, of the TANF block grant. FNS must be informed of, or must approve, the TANF services that a State determines to confer categorical eligibility. 7 CFR § 273.2(j)(2)(ii)
19. **Households in Connecticut with incomes below 185% of the federal poverty level ("FPL") qualify for the State's "Help for People in Need" program which is funded with money counted for TANF MOE purposes and meets the requirements in 7 CFR § 273.2(j)(2)(ii). As such, the Department extends broad-based categorical eligibility for SNAP to all households that qualify for "Help for People in Need".**

20. **The Appellant's household size was five. The household's total income was the sum of the Husband's average monthly wages of \$1,696.87 and the son's monthly SSI of \$783.00, which equaled \$2,479.87.**
21. The Federal Poverty Standards applicable to the Appellant's eligibility determination are published in the Federal Register, Vol. 84, No. 22 / Friday, February 1, 2019, pp. 1167-1168
22. **185% of the FPL for a household of five persons was \$4,651.21. The Appellant's household's total income of \$2,479.87 was less than 185% of the FPL. Her household was, therefore, eligible for "Help for People in Need" and, therefore, categorically eligible for SNAP under the provisions of 7 CFR § 273.2(j)(2)(ii). Because the household was categorically eligible, it was not required to meet the net income test.**
23. The Appellant's household's income and deductions are calculated pursuant to 7 CFR § 273.9. Net income and SNAP benefit levels are then calculated pursuant to 7 CFR § 273.10(e). The calculations are as follows:

Only certain income deductions are allowed to be used in the calculation of SNAP benefits. The household expenses which may be used as deductions are described in paragraphs (d)(1) to (d)(6) of 7 CFR § 273.9.

The *standard deduction* for a household size of one to six persons is equal to 8.31 percent of the monthly net income standard for each household size established under § 273.9(a)(2) rounded up to the nearest whole dollar. 7 CFR § 273.9(d)(1)

The Appellant's household qualified for the standard deduction for a household of five persons, which was \$209.00.

7 CFR § 273.9(d)(2) provides for an *earned income deduction* equal to twenty percent of gross earned income.

The Appellant qualified for an earned income deduction equal to twenty percent of her Husband's gross wages of \$1,696.87, or \$339.37.

The Appellant did not qualify for any of the other three remaining deductions provided for in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9, the *excess medical deduction, dependent care deduction, or child support deduction*. The figure equaling the total deductions allowable under (d)(1) to (d)(5) is applicable to the next calculation.

7 CFR § 273.9(d)(6)(ii) provides for the *excess shelter deduction*. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9 have been allowed, are allowed as an excess shelter deduction.

The Appellant's household only qualified for two of the deductions in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9, the *standard deduction* and *earned income deduction*. After deducting the \$209.00 *standard deduction* and the \$339.37 *earned income deduction* from the Appellant's household's

total gross income, the remaining income was \$1,931.50 (\$783.00 SSI + \$1,696.87 wages = \$2,479.87 total income; \$2,479.87 total income - \$209.00 standard deduction, - \$339.37 earned income deduction = \$1,931.50).

50% of \$1,931.50 is \$965.75, and is the figure referred to in 7 CFR § 273.9(d)(6)(ii) that is used in the calculation of the *excess shelter deduction*.

7 CFR § 273.9(d)(6) discusses shelter costs and provides that only certain expenses are allowable as shelter expenses, including rent, mortgage, property taxes, insurance on the structure, condo and association fees, and the actual costs of utilities.

7 CFR § 273.9(d)(6)(iii) provides for a *standard utility allowance* which may, at State option, be used in place of the actual cost of utilities in determining a household's *excess shelter deduction* and which may be made available both to households that incur actual utility expenses and to those that receive assistance under the LIHEAA (Low Income Home Energy Assistance Act).

The Department allows a standard utility allowance (SUA), currently \$736.00, in place of the actual cost of utilities for qualifying households. The Appellant was obligated for utility costs, thus her household qualified to have the SUA used in place of her actual costs in the calculation of the *excess shelter deduction*.

The Appellant's shelter expenses were \$1,821.00 (\$1,085.00 rent + \$736.00 SUA).

"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 CFR § 273.9(d)(6)(ii)

"*Elderly or disabled member* means a member of a household who...(2) Receives supplemental security income benefits under title XVI of the Social Security Act..." 7 CFR 271.2

The Appellant's household contained a disabled member; her son received SSI. There was, therefore, no cap or limit on her household's maximum shelter deduction.

The Appellant's *excess shelter deduction* was \$855.25 (\$1,821.00 shelter expenses - \$965.75 [50% of income remaining after subtracting deductions allowed under 7 CFR § 273.9(d)(1) to (d)(5)]).

The Appellant's *net income* after all deductions was \$1,076.25 (\$2,479.87 total gross income, minus \$339.37 *earned income deduction*, minus \$209.00 *standard deduction*, minus \$855.25 *excess shelter deduction*).

"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...." 7 CFR § 273.10(e)(2)(ii)(A)

30% of the Appellant's household's net monthly income (\$1,076.25 multiplied by .3) was \$322.88; the figure was rounded up to \$323.00 pursuant to 273.10(e)(2)(ii)(A)(1).

The maximum food stamp allotment (known as the “thrifty food plan”) for a household of five persons was \$768.00.

The Appellant’s household was eligible for a SNAP benefit of \$445.00 (\$768.00 maximum SNAP allotment - \$323.00 (30% of net income)).

24. The Department incorrectly determined the Appellant’s monthly SNAP allotment.

DECISION


The Appellant’s appeal is GRANTED.

DISCUSSION

The Department’s calculations were all correct except that, for unknown reasons, the household was disallowed the full *excess shelter deduction* calculated for it, because a cap was placed on the maximum deduction allowed. The deduction is only capped for households that do not contain an elderly or disabled member. The Appellant’s son is a disabled recipient of SSI, so the household was eligible for the full calculated deduction, with no cap applied.

ORDER

1. The Department must recalculate the Appellant’s SNAP, lifting the cap on the maximum *excess shelter deduction*.
2. The Department must send, directly to the undersigned hearing officer, proof of compliance with the order in (1) above, by no later than [REDACTED], 2020.


James Hinckley
Hearing Officer

cc: Rachel Anderson
Cheryl Stuart
Lisa Wells
Jacqueline Taft

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, 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.