

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 # 153307

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) denying her application for benefits under the Supplemental Nutrition Assistance Program (“SNAP”) because her household’s gross income exceeded the limit.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s denial of her application for SNAP benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2020.

Due to COVID-19 concerns, it was agreed upon by the parties that the hearing would be conducted telephonically.

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, via telephone
Christine Faucher, Department’s representative, via telephone
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUES

1. Whether the Department was correct when it determined the Appellant did not qualify for SNAP because her household's total income exceeded the gross limit.
2. Whether the Department correctly made the determination whether the Appellant's son could be considered a "disabled household member", in accordance with SNAP regulations.

FINDINGS OF FACT

1. The Appellant applied for SNAP on [REDACTED] 2020. (Hearing Record)
2. The Appellant's SNAP household included herself, her adult roommate, and three minor children. (Hearing Record)
3. The Appellant was employed, and provided the Department with copies of pay stubs to verify her wages. She had average monthly earnings of \$2,580.00 (average weekly earnings multiplied by 4.3) (Ex. 13: Pay Stubs)
4. The Appellant's roommate was employed and his wage records were available to the Department through its employment verification service, *The Work Number*. He had average monthly earnings of \$1,901.14 (average weekly earnings multiplied by 4.3). (Ex. 12: *The Work Number* verification results)
5. The Appellant received average monthly child support income of \$ 556.32. The child support was verified through the Department's Child Support Enforcement System and was based on an average of the most recent three months of payments. (Ex: 11: CCSES printout)
6. The Appellant had to pay rent of \$1.508.00 monthly and was responsible for electricity costs not related to electric heat. (Hearing Record)
7. The Appellant had monthly daycare costs of \$580.50 (\$135.00 weekly, multiplied by 4.3). (Hearing Record)
8. The household's income, rent, utility and daycare amounts used by the Department in the eligibility determination are not being disputed by the Appellant. (Stipulated)
9. The Appellant's 11 year old son suffers from severe chronic migraine headaches. He sees a pediatric neurologist. His symptoms include debilitating headache pain of a "stabbing", "squeezing" and "pounding" nature. The frequency is daily. (Appellant's testimony, Ex. 18: W-300T19 Medical Report from [REDACTED] M.D.)

10. The Appellant's son has tried several treatments for his migraine pain that have not relieved his symptoms. (Appellant's testimony)
11. The Appellant's son has recently started treatment with an assistive device, an electronic modulator, which has been an effective treatment for his headaches. The son's pediatric neurologist has stated that he "requires assistive device" and that "without assistive device, symptoms are likely to be severe." (Appellant's testimony, Ex. 18)
12. The cost to the Appellant for her son's assistive medical device is \$750.00 per quarter out-of-pocket, or \$250.00 per month. (Appellant's testimony)
13. The Appellant has additional out-of-pocket medical expenses related to her son's medical condition of \$258.00 monthly (\$120.00 bi-weekly, multiplied by 2.15). (Hearing Record)
14. The Appellant reported to the Department that her son was previously determined by the Social Security Administration ("SSA") to be disabled, but that he was not eligible for payments because he received income from child support. The Department could not verify through its interface systems with SSA, the Beneficiary and Earnings Data Exchange (BENDEX), State Data Exchange (SDX) or State Online Query (SOLQ), that the Appellant's son had been determined by SSA to be disabled. The Appellant also reported to the Department that she had no documentation to provide that would verify whether such a finding was made by SSA. (Ex. 1: Case Notes)
15. The Department's eligibility worker proposed that the Department's contractor for performing medical reviews, Colonial Cooperative Care ("CCC"), might review the Appellant's son's information to determine whether he could be considered "disabled" for SNAP purposes. The stated purpose of having a review done by CCC was so that her son's medical expenses could be considered for SNAP. (Hearing Record)
16. The Appellant completed a supplemental medical information form for purposes of completing a medical review, and her son's neurologist completed a medical report which was also required for the review. (Ex. 16: W-303 Client Supplement for Medical Information, Ex. 18)
17. After internal consultation, the Department declined to refer the Appellant's son's medical information to CCC for review. (Ex. 17: email chain)
18. On [REDACTED] 2020, the Department issued an NOA to the Appellant denying her application for SNAP because her household's gross income exceeded the limit. (Ex.3: NOA dated [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 in accordance with federal law.
2. **Whether or not a SNAP household contains an elderly or disabled member is relevant to the SNAP determination of eligibility in several respects. Pursuant to title 7 of the Code of Federal Regulations (“CFR”) Section 273.9(a), households which contain an elderly or disabled member are not subject to meeting the SNAP gross income eligibility standard. Pursuant to 7 CFR § 273.9(d)(3), an *excess medical deduction* is allowed for certain medical expenses incurred by any household member who is elderly or disabled. Pursuant to 7 CFR § 273.9(d)(6)(ii), the maximum shelter deduction limit can be exceeded if the household contains an elderly or disabled member.**
3. 7 CFR § 273.2(f)(1)(viii)(A) requires that the State agency use the definition of disability in § 271.2.
4. 7 CFR § 271.2 provides as follows:

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;

(4) Receives federally or State-administered supplemental benefits under section 212(a) of Pub. L. 93-66;

(5) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.

(6) Is a veteran with a service-connected or non-service-connected disability rated by the Veteran’s Administration (VA) as total or paid as total by the VA under title 38 of the United States Code;

(7) Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code;

(8) Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;

(9) Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under title 38 of the United States Code *and* has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or

(10) Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 *and* is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act.

(11) Is a recipient of interim assistance benefits pending the receipt of Supplemental Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits *provided* that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI). (*emphasis in original*)

5. **The Appellant's son did not meet any of the definitions in § 271.2 (1) to (11) and could not be considered a *disabled member* pursuant to SNAP rules. Her son did not *receive*, nor was he approved to receive, benefits based upon disability criteria.**
6. **The Department was correct when it declined to send the Appellant's son's medical information to CCC for review. Even if CCC determined that her son met the medical criteria, it would not have resulted in eligibility for any cash or medical benefits. Unless actually *receiving* benefits based on a disability determination, an individual cannot be considered a *disabled member* for SNAP, so the CCC review would have served no purpose.**
7. 7 CFR § 273.9 (a) provides, in relevant part, as follows:

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)).

8. **The Appellant's household did not contain an elderly or disabled member. It was, therefore, subject to both the net income and gross income eligibility standards for SNAP, unless the household was categorically eligible pursuant to §273.2(j)(2) or 273.2(j)(4).**
9. The provisions in 7 CFR § 273.2(j)(2) and § 273.2(j)(4) confer categorical eligibility only to households that receive cash assistance from PA (Public Assistance), SSI (Supplemental Security Income) or GA (General Assistance), except for categorical eligibility conferred based on the provisions in § 273.2(j)(2)(ii).
10. **No members of the Appellant's household received income from PA, SSI or GA. The household was, therefore, not categorically eligible on that basis.**
11. 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)
12. **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".**
13. 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
14. **185% of the FPL for a household of five persons was \$4,652.00.**

15. **The household's total income of \$5,037.48 (Appellant's earnings of \$2,580.00, plus her roommate's earnings of \$1,901.16, plus child support of \$556.32) exceeded 185% of the FPL for a household of five persons, which was \$4,652.00. The household was, therefore, not categorically eligible pursuant to § 273.2(j)(2)(ii), and was subject to the SNAP gross income eligibility standard.**
16. 7 CFR § 273.9(a)(1) discusses the gross income eligibility standards for the Food Stamp Program and provides that: (i) "The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia."
17. **130% of the FPL for a household of five persons was \$3,269.00.**
18. **The household's total income of \$5,037.48 exceeded the SNAP gross income limit for a household of five persons, which was \$3,269.00.**
19. **The Department was correct when it denied the Appellant's application for SNAP, because her household's income exceeded the gross income limit.**

DISCUSSION

The Appellant demonstrated that her son has a severe medical condition, and that she has bona fide out-of-pocket medical expenses related to that condition. However, medical expenses can only be allowed as deductions for individuals that meet the SNAP definition of disability.

CCC performs medical reviews using disability criteria at least as stringent as those used by Social Security. Despite that, even if CCC performed a review that found that the Appellant's son met the disability criteria, it still would not have qualified him as a *disabled individual* for SNAP. The reason is that the most essential aspect of the SNAP definition of *disabled individual* is that the individual must *receive cash or medical benefits based on the disability determination*. Since the Appellant's son receives child support income that disqualifies him from actually qualifying for a benefit payment, he, unfortunately, cannot be considered a disabled member under SNAP.

DECISION

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

James Hinckley
James Hinckley
Hearing Officer

cc: Tricia Morelli
Christine Faucher

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.