

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 # ██████████
Case ID# ██████████
Hearing Request # 153751

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant") a Notice of Action ("NOA"), reducing her Supplemental Nutrition Assistance Program ("SNAP") benefits from \$194.00 to \$94.00 per month effective ██████████ 2020.

On ██████████, 2020, the Appellant requested an administrative hearing because she disagrees with the amount of her Supplemental Nutrition Assistance Program ("SNAP") benefits of \$94.00 per month.

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

On ██████████ 2020, the Appellant requested the administrative hearing be rescheduled.

On ██████████ 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 2020.

On ██████████ 2020, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by phone. The following individuals were present at the hearing:

12. 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 ██████████ 2020. Therefore, this decision is due not later than ██████████, 2019. However, the hearing, which was originally scheduled for ██████████ 2020, was rescheduled for ██████████ 2020, at the request of the Appellant, which caused a 22- day delay. Because this 22 - day delay resulted from the Appellant's request, this decision is not due until ██████████ 2020, and is therefore timely.

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.
2. Title 7 CFR § 273.9(b)(2)(ii) provides for counting social security benefits as unearned income.

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

The Department correctly determined the Appellant's monthly income from SSA as \$975.00.

5. Title 7 of the Code of Federal Regulations ("CFR") § 273.11(a)(1)(i) provides that self-employment income must be averaged over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the State agency must calculate the self-employment income on the basis of anticipated, not prior earnings.
6. Title 7 of the CFR § 273.11(a)(2) provides that when determining monthly income from self-employment and states that for the period of time over which self-employment income is determined, the State agency must add all gross self-employment income (either actual or anticipated, as provided in paragraph (a)(1)(i) of this section) and capital gains (according to paragraph (a)(3) of this section), exclude the costs of producing the self-employment income (as determined in paragraph (a)(4) of this section), and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. The monthly net self-employment income must be added to any other earned income received by the household to determine total monthly earned income.

The Department was correct when it counted the income the Appellant received from her self-employment as provided for in the Code of Federal Regulations.

The Department was correct when it determined the monthly net self employment income for [REDACTED] as \$310.83 monthly (\$3730.00 yearly income / 12 months = \$310.83).

The Department was correct when it determined the monthly net self-employment income from [REDACTED] as \$298.33 (\$3580.00 yearly income / 12 months = \$298.33).

The Department correctly determined the total monthly net self – employment income as \$609.16 (\$310.83 + \$298.33 = \$609.16).

7. Title 7 of the CFR § 273.11(b)(1) provides for allowable costs of producing self-employment income and states that allowable costs of producing self-employment income include, **but are not limited to**, the identifiable costs of labor; stock; raw material: seed and fertilizer; payments on the principal of the purchase price of income-producing real estate and capital assets; equipment, machinery, and other durable goods; interest paid to purchase income producing property; insurance premiums; and taxes paid on income-producing property.
1. Title 7 of the CFR § 273.11(b)(2) provides that in determining net self-employment income, the following items are not allowable costs of doing business: (i) Net losses from previous periods; (ii) Federal, State and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 20 percent earned income deduction specified in §273.9(d)(2); (iii) Depreciation; and (iv) Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

Uniform Policy Manual (“UPM”) § 5035.15(A)(1) provides the income earned by any member of the assistance unit through self-employment is adjusted by subtracting the following costs of producing income as they apply:

- a. payments to employees;
- b. cost of stock, raw material, seed, or fertilizer;
- c. interest paid to purchase income-producing property;
- d. insurance premiums and taxes paid on income-producing property; and
- e. cost of providing meals in day care programs to children, other than the provider’s own, and to adults.

The Department was correct when it counted \$0.00 for the allowable costs of producing self-employment income because the Appellant did not provide verification of her business expenses.

8. Title 7 C.F.R. § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.

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.

The Department correctly applied a 20% earned income deduction to the self employment income of \$609.16 for an adjusted earned income of \$487.33 (\$609.16 - \$121.83 [20% of \$609.16] = \$487.33).

The Department correctly determined the Appellant's total income as \$1462.33 (\$487.33 adjusted earned income + \$975.00 SSA = \$1462.33).

The Department correctly applied the \$167.00 standard deduction to the income of \$1462.33 and determined the Appellant's household adjusted gross income of \$1295.33 (\$1462.33 - \$167.00 = \$1295.33).

9. Title 7 C.F.R. § 273.9(d)(6)(ii) provides for an excess shelter deduction.

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;

10. Title 7 C.F.R. § 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.

11. Title 7 C.F.R. § 273.9(d)(6)(iii)(B) requires states to review the cost of heating and cooling homes and to update the standard utility allowance based on such costs.

12. Title 7 CFR § 271.2 provides for the maximum shelter deduction.

UPM § 5035.15 (F)(10) provides that for those units, which do not have any members who are elderly or disabled, a maximum shelter hardship deduction, which is established by the USDA, is allowed. The maximum shelter hardship is revised annually effective October 1. (Maximum effective October 2018 is \$552.00).

The Department correctly determined the Appellant's shelter costs were \$1611.00 (\$875.00 rent + \$736.00 SUA).

The Department correctly determined the Appellant's shelter hardship was \$963.33. (\$1611.00 shelter costs - \$647.66, fifty percent of adjusted gross income). The Appellant is not subject to the maximum shelter hardship because she is elderly.

The Department correctly determined the Appellant's applied income was \$331.99 (\$1295.33 adjusted gross income - \$963.33 shelter hardship).

13. Title 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

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 correctly determined that the Appellant's 30% net adjusted income was \$100.00 (\$331.99 applied income x 30%= \$100.00).

14. The Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

<u>INCOME</u>	
Gross Earnings	\$609.16
Less 20% deduction	\$121.83
Adjusted earned income	\$487.33
Social Security	\$975.00
Total Income	\$1462.33
Less standard deduction	<u>-\$167.00</u>
Adjusted gross income	\$1295.33
<u>SHELTER COSTS</u>	
Rent	\$875.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1611.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1611.00
Less 50% of adjusted gross income	<u>-\$647.66</u>
Total shelter hardship	\$963.33 <small>(Cannot exceed \$552 unless elderly or disabled)</small>
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1295.33
Less shelter hardship	<u>-\$963.33</u>
Net Adjusted Income (NAI)	\$331.99
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for one	\$194.00
Less 30% of NAI	<u>-\$100.00</u>
SNAP award	\$94.00

The Department correctly calculated the Appellant's monthly SNAP benefit amount of \$94.00.

DECISION

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


Scott Zuckerman
Hearing Officer

Pc: Musa Mohamud, Operations Manager, DSS, Hartford Regional Office
Judy Williams, Operations Manager, DSS, Hartford Regional Office
Jessica Carroll, Operations Manager, DSS, Hartford Regional Office
Jay Bartolomei, Fair Hearing Liaison Supervisor, DSS, Hartford Regional Office
Rose Montinant, Fair Hearing Liaison, DSS, Hartford Regional Office

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.