

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

Case ID# ██████████
Client ID ██████████ 5
Request # 157782

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") closing her 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 because she disagrees with the Department's such decision.

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 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. Due to COVID-19 concerns, the hearing was held telephonically. No party objected to the hearing being held in that manner.

The following individuals were present at the telephone hearing:

██████████, the Appellant
Ferris Clare, Department's Representative
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined that the Appellant did not qualify for SNAP because her household's total income exceeded the gross limit.

FINDINGS OF FACT

1. The Appellant's household consists of herself. The Appellant is [REDACTED] years old and disabled. (Hearing Summary, Appellant's Testimony)
2. On [REDACTED] 2020, the Appellant contacted the Department and reported a change in her income. (Hearing Summary, Appellant's Testimony)
3. The Appellant reported her employment as [REDACTED] ended as of [REDACTED] 2020, and in [REDACTED] 2020, she started to receive \$798.00 (\$198.00, Unemployment Benefit + \$600.00 Federal Pandemic Unemployment Benefit) a week in Unemployment Benefits. (Appellant's Testimony, Hearing summary)
4. The Appellant also receives \$919.00 a month in Social Security Disability Income ("SSDI"). (Appellant's Testimony)
5. The Appellant pays \$950.00 a month in rent and pays for utilities. (Appellant's Testimony, Exhibit 1)
6. On [REDACTED] 2020, the Department calculated the Appellant's total Unemployment Income to \$3431.40 monthly (\$798.00 a week x 4.3). (Exhibit 1: NOA dated [REDACTED]/20, Hearing summary)
7. On [REDACTED], 2020, The Department determined the Appellant's total monthly income equals 4682.90 (\$3431.40; Unemployment benefits+\$919.00; SSDI+\$332.50 income from dog sitting). (Exhibit 1, Hearing Summary)
8. On [REDACTED] 2020, the Department determined that the Appellant's monthly net income has exceeded the income limit for the SNAP program. (Hearing Summary, Exhibit1)
9. On [REDACTED], 2020, the Department issued a Notice to the Appellant informing that her SNAP benefits will close effective [REDACTED] 2020, because the monthly net income of her household is more than the limit for this program. (Exhibit 1, Hearing Summary)
10. On [REDACTED], 2020, the Appellant requested an administrative hearing. (Exhibit A: Hearing Request Form)

11. On [REDACTED] 2020, the Department removed the income from dog sitting and recalculated SNAP eligibility. The Department issued another notice stating the Appellant is not eligible for SNAP benefits because her monthly net income is more than the limit for the SNAP program. (Exhibit 2: Notice of Action, [REDACTED]/20)
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 [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.
2. "The Department's Uniform Policy Manual ("UPM") 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 Income Maintenance*, 2017 Conn. 601, 573 A.2d 712 (1990)).
3. 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)).

The Appellant is disabled, therefore, subject to the net income eligibility standards for SNAP, unless it met categorical eligibility requirements pursuant to §273.2(j)(2) or 273.2(j)(4).

4. The provisions in 7 CFR § 273.2(j)(2) and § 273.2(j)(4), with a single exception, confer categorical eligibility only to households that receive cash assistance from PA (Public Assistance), SSI (Supplemental Security Income) or GA (General Assistance). The exception is broad-based categorical eligibility based on the provisions in § 273.2(j)(2)(ii).

No members of the Appellant's household received income from PA, SSI, or GA. The household was, therefore, not categorically eligible based on receipt of cash assistance.

5. Title 7 CFR § 279.3(b)(2)(ii) provides for counting pensions and social security benefits as unearned income.
6. UPM § 5050.13(A)(6) provides that benefit 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 included the Appellant's Social Security in the calculation of SNAP

7. Title 7 of CFR § 273.9 (b)(2)(ii) provides that unearned income shall include, but not be limited to: Annuities, pensions, retirement, veteran's, or disability benefits, worker's compensation or unemployment.
8. UPM § 5005(A)(1) provides in relevant part the Department counts the assistance units available income, and that income is considered available if it is received directly by the assistance unit.

The Department correctly determined that the Appellant's unearned income must be included when calculating the SNAP benefits for the assistance unit.

The Department correctly included the Appellant's UCB benefits unearned income when calculating the amount of the SNAP benefits.

9. Title 7 of the Code of Federal Regulations (CFR) § 273.10(c)(1)(ii) & (c)(2)(i) provides for converting income into monthly amounts.
10. UPM § 5025.05(A)(2) provides for converting income to monthly amounts and states for current and future months, 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 (b) a reasonable anticipation of what circumstances will exist to affect the receipt of income in future months.
11. UPM § 5025.05(B)(2)(a) provides that if income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows: a. if income is the same each week, the regular weekly income is the representative weekly amount.

The Department correctly determined that the Appellant's total monthly Unemployment income is \$3431.40 monthly (\$798.00 a week x 4.3)

The Department correctly determined the Appellant's total monthly income equals 4350.40 (\$3431.40; Unemployment benefits+\$919.00; SSDI).

12. Title 7 CFR § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.
13. 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 \$147.00 per month; {effective October 2011}
 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 applied the \$167.00 standard deduction to the total income of \$4350.40 to determine the amount of the Appellant's household adjusted gross income of \$4183.40 (\$4350.40 - \$167.00 standard deduction).

14. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.
15. 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;

16. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.
17. 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.

The Department correctly determined the Appellant's shelter costs were \$1686.00(\$950.00 + \$736.00).

18. Title 7 CFR § 271.2 provides for the maximum shelter deduction.
19. "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 2019 is \$552.00) UPM § 5035.15 (F)(10)

The Department determined the Appellant's shelter hardship was \$0.00. (\$1686.00 total shelter costs - \$2091.70 ½ of adjusted gross income). The Appellant is subject to the maximum shelter hardship because he is elderly.

The Department correctly determined the Appellant's net adjusted (applied) income was \$4183.40 (\$4183.40 Adjusted gross income - \$0.00 shelter hardship)

20. Title 7 CFR § 273.9 provides (a) *Income eligibility standards*. 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)).
21. UPM § 5520.40 provides that income eligibility for the SNAP program is determined either through the use of SNAP gross and applied income tests or through meeting

the eligibility requirements for Temporary Family Assistance (“TFA”) (including diversion assistance), Aid to Families with Dependent Children (“AFDC”), Aid to the Aged, Blind and Disabled (“AABD”), General Assistance (“GA”), State Administered General Assistance (“SAGA”), refugee assistance or Supplemental Security Income (“SSI”).

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
 - a. include one or more persons who are elderly or disabled; or
 - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:
 - a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.
 - b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.

B. Applied Income Eligibility Test

1. Income eligibility is determined on the basis of the assistance unit's total monthly applied income:
 - a. including those units which are not subjected to the Gross Income Eligibility Test; and
 - b. excluding those units which are considered categorically eligible for FS benefits.
2. The unit's total monthly applied income is compared to an amount equivalent to the Food Stamp Applied Income Limit for the respective unit size:
 - a. If the total applied income exceeds the FSAIL, the unit is not eligible for Food Stamps benefits;
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.

C. Categorical Eligibility Test

Those assistance unit's which qualify as categorically eligible are not subjected to gross or applied income eligibility tests.

22. UPM § 2545.05(A) provides for an assistance's unit categorically eligibility for the SNAP program and states that if:

1. all members of the assistance unit receive or are authorized to receive benefits under one or more of the following cash assistance programs:
 - a. TFA, including diversion assistance;
 - b. AABD;
 - c. SSI (except if the individual does not meet the Food Stamp technical requirement of citizenship status);
 - d. SAGA individual or family assistance;

The Appellant's household is not subject to the Gross Income Test because the Appellant is disabled.

The Appellant's SNAP is subject to Applied Income Test because she is not categorically eligible for SNAP benefits. The Appellant does not receive TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance, or SSI.

The Appellant's applied income of \$4183.40 exceeds the FSAIL of \$1354.00 for a household size of one (1) person.

The Department correctly denied the Appellant's application for SNAP benefits because her household income exceeds the applied income limit of \$1316.00, 130% of the FPL for a household of one person.

DISCUSSION

The Department was incorrect to count the Appellant's income from employment after the employment has ended. However, the Department recognized its error and made the appropriate correction. The Appellant's net adjusted income of \$4183.40 exceeded the SNAP applied income limit of \$1316.00 for a household of one.

DECISION

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



Swati Sehgal
Hearing Officer

cc: Rachel Anderson, Operations Manager, DSS, RO #20, New Haven
Cheryl Stuart, Operations Manager, DSS, RO #20, New Haven
Lisa Wells, Operations Manager, DSS, RO #20, New Haven
Ferris Clare, Fair Hearing Liaison, DSS, RO#20, New Haven

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 Legal Counsel, Regulations, and Administrative Hearings, 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 06105-3725. 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 his 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.