

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

██████████
Request # 158824

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant"), a Notice of Action ("NOA") denying her application for Supplemental Nutrition Assistance Program ("SNAP") benefits because her monthly gross income is more than the program limit.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the denial of the SNAP.

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 a telephonic administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
Marybeth Mark, Department's Representative
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for SNAP benefits.

On [REDACTED] 2020, the hearing record was reopened in order to admit the Appellant's evidence into the hearing record. On [REDACTED] 2020, the hearing record closed.

FINDINGS OF FACT

1. On [REDACTED], 2020, the Department received the Appellant's application for SNAP assistance. (Exhibit 5: Case Notes; Hearing Summary)
2. On [REDACTED] 2020, the Department completed the Appellant's telephone interview. (Exhibit 5: Case Notes)
3. The Appellant's household consists of four members that include the Appellant, her partner, and two minor children ages 13 and three. (Appellant's Testimony; Hearing Summary)
4. No one in the Appellant's household is over 60 or disabled. (Appellant's Testimony)
5. The Appellant's mortgage is \$1,168.00 monthly. She pays separately for heat. (Appellant's Testimony)
6. The Appellant receives \$120.00 weekly in child support for the 13 year old. The monthly child support totals \$480.00. (Exhibit 5: Case Notes; Appellant's Testimony)
7. At the time of application the Appellant was in receipt of \$600.00 weekly in federal Unemployment Compensation Benefits ("UCB") and \$331.00 weekly in state UCB. The total UCB equals \$931.00 ($\$600.00 + \$331.00 = \931.00) weekly. (Appellant's Testimony; Department's Testimony; Hearing Summary)
8. The Appellant's partner is employed by [REDACTED] He is paid \$20.62 per hour and works 50 to 60 hours weekly. (Appellant's Testimony)
9. The Appellant's partner earned the following wages:

Date	Amount
[REDACTED]/20	\$2,326.80
[REDACTED]/20	\$1,455.50
[REDACTED]/20	\$2,352.27
[REDACTED]/20	\$1,176.79
[REDACTED]/20	\$1,249.00

/20	\$1,705.30
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(Exhibit 3: The Work Number Wage Verification; Appellant's Exhibit B: Wage Stubs)

10. On [REDACTED] 2020, the Department issued a notice to the Appellant denying the SNAP application because her monthly gross income exceeds the limit for the SNAP program. (Exhibit 1: NOA, [REDACTED] 20)
11. 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 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. Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.9(a) provides that 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 SNAP. 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 SNAP. 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 as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(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*, 214 Conn. 601, 573 A.2d 712 (1990)).

UPM § 5000.01 provides that an elderly person, in the context used by the Food Stamp (SNAP) program means a person who is sixty or more years of age.

No one in the Appellant's household is disabled or elderly. The Appellant must meet the gross and net eligibility standards for SNAP.

3. Income eligibility standards for the 48 contiguous States and the District of Columbia, Guan, and the Virgin Islands shall be 130 percent of the Federal

income poverty levels for the 48 contiguous States and the District of Columbia. 7 CFR § 273.9(a)(1)(i)

Uniform Policy Manual (“UPM”) Section 5520.40 provides that income eligibility for the SNAP program is determined either through the use of the SNAP gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance or 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 SNAP 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 Supplemental Nutritional Assistance Program Applied Income Limit (“SNAPAIL”) 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 SNAP 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.
4. “The State agency, at its option, may extend categorical eligibility to the following households . . .”
- (A) “Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant . . .”
 - (B) “Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant . . .” 7 CFR § 273.2(j)(2)(ii)
5. Households in Connecticut with incomes below 185% of the federal poverty level qualify for the State’s “Help for People in Need” program, which meets the requirements outlined in 7 CFR § 273.2(j)(2)(ii), allowing the Department to extend broad-based categorical eligibility for SNAP to all such qualifying households.

6. Effective October 2019, 185% of the Federal Poverty Level for Expanded Categorical Eligibility for a household with four persons is \$3,970.00.
7. Title 7 C.F.R. § 273.10(c)(1)(i) provides that for the purpose of determining the household's eligibility and level of benefits, the state agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by § 273.12.
8. Title 7 C.F.R. § 273.9(b)(1)(i) provides that earned income shall include all wages and salaries of an employee.

Title 7 C.F.R. § 273.9(b)(2)(ii) provides in part that unearned income shall include annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation. . .

Title 7 C.F.R. § 273.9(b)(2)(iii) provides in part that unearned income shall include, but not be limited to support or alimony payments made directly to the household from nonhousehold members.

Uniform Policy Manual ("UPM") § 5005(A) provides that the Department counts the assistance unit's available income, and that income is considered available if it is:

1. received directly by the assistance unit,
2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
3. deemed by the Department to benefit the assistance unit.

The Department correctly included the earnings, UCB and child support income in the calculation of eligibility for SNAP benefits.

9. Title 7 C.F.R. § 273.10(c)(1)(ii) provides in part that 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.

10. Title 7 C.F.R. § 273.10(c)(2)(i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received unless the income is averaged. 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, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period.

UPM § 5025.05(b) provides:

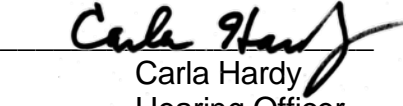
1. If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.
 2. If income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows:
 - a. If income is the same each week, the regular weekly income is the representative weekly amount;
 - b. If income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount;
 - c. If there has been a recent change or if there is an anticipated future change, the amount expected to represent future income is the representative weekly amount;
 - d. If income is received on other than a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered.
11. The Department incorrectly determined that the Appellant's partner's gross earnings equal \$6,340.58.
12. The partner's gross monthly earnings equal \$6,969.61 $[(\$2,352.27 + \$1,176.79 + \$1,249.00 + \$1,705.30)/4 \times 4.3 = \$6,969.61]$.
13. The Department correctly determined that the Appellant's monthly unearned income equals \$4,483.30 $[(931.00 \times 4.3 \text{ UCB}) + (\$480.00 \text{ Child Support}) = \$4,483.30]$.
14. The Appellant's gross monthly income totals \$11,452.91 $[\$6,969.61 + \$4,483.30 = \$11,452.91]$.
15. The Department correctly determined that the Appellant's monthly gross income exceeds the Expanded Categorical Eligibility limit of \$3,970.000 for a household of four persons.
16. On [REDACTED], 2020, the Department correctly denied the Appellant's application for the SNAP because the household income exceeds the limit.

DISCUSSION

The Appellant's \$600.00 Federal UCB terminated on [REDACTED] 2020. On [REDACTED] 2020, the Department removed this income and recalculated the partner's earnings. The household's income totaled \$8,872.91 and remains over the SNAP limit of \$3,970.00 for a household of four members.

DECISION

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


Carla Hardy
Hearing Officer

Pc: Cheryl Stuart, Marybeth Mark, Department of Social Services, Norwich 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 06105-3725. 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 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.