

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████
Signature Confirmation

Client ID # ██████████
Request #161780

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) discontinuing his Supplemental Nutrition Assistance Program (“SNAP”) benefits effective ██████████ 2020, because his countable income was higher than the maximum benefit for his household size.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s discontinuance of his SNAP benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2020. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

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. No party objected to the hearing being held telephonically. The following individuals were present at the hearing:

██████████ Appellant
Javier Rivera, Hearing Liaison for the Department
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

1. Whether the Department was correct when it discontinued the Appellant's monthly SNAP award because his countable income was more than the maximum benefit for his household size.

FINDINGS OF FACT

1. The Appellant's household was certified to receive SNAP for the period from [REDACTED] 2020 to [REDACTED] 2021. (Hearing Record)
2. The Appellant's SNAP household includes five members; himself, his wife and their three minor children. (Hearing Record)
3. No member of the Appellant's SNAP household is disabled. (Hearing Record)
4. On [REDACTED] 2020, the Appellant completed and signed a Periodic Review Form ("PRF") which he submitted to the Department. The Department requires a PRF to be completed at some mid-point in the SNAP certification period in order for the recipient to report any changes that have occurred since certification. (Hearing Record)
5. The Appellant reported on his PRF that his earned income of \$771.34 per week from [REDACTED] had not changed since his benefits were certified. (Ex. 2: PRF)
6. The Appellant reported on his PRF that his wife no longer received any income from her business, [REDACTED], which remains closed by order of the Governor while the COVID-19 pandemic persists. He also reported he no longer received any income from his business, [REDACTED]. (Ex. 2)
7. The Appellant reported on his PRF that that his wife was receiving \$221.00 per week in Unemployment Compensation Benefits ("UCB") during the time her business remained closed. The Department confirmed the accuracy of the information through its computer interface with the Department of Labor. (Ex. 2, Hearing Record)
8. The Appellant has a home mortgage expense of \$1,291.00 per month, a homeowner's insurance expense of \$75.00 per month, and he is responsible for all utilities for his home. (Hearing Record)
9. The Appellant also has expenses to maintain the building that houses his wife's business that is currently not operating and not generating any income. (Appellant's testimony)

10. On [REDACTED] 2020, the Department issued an NOA to the Appellant notifying him that he was not eligible for a SNAP benefit beginning [REDACTED] 2020, because his countable income was higher than the maximum SNAP benefit for his household size. (Ex.5: NOA)

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. Title 7 of the Code of Federal Regulations (“CFR”) Sec. 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)).
3. **The Appellant’s household did not contain an elderly or disabled member. The household was, therefore, subject to both the SNAP net income and gross income eligibility standards, unless categorically eligible.**
4. “Earned income shall include: (i) All wages and salaries of an employee....” 7 CFR § 273.9(b)(1)
5. **The Appellant’s household had \$771.34 per week in earned income. He confirmed on his PRF that his earnings had not changed since his case was certified.**
6. “Unearned income shall include, but not be limited to: (ii)...unemployment compensation...” 7 CFR § 273.9(b)(2)
7. **The Appellant’s household had \$221.00 per week in UCB benefits, which the Department confirmed through its computer interface with the Department of Labor.**

8. "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...." 7 CFR § 273.10(c)(1)(i)
9. "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)
10. "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)
11. **The Appellant's earnings of \$771.34 per week had to be converted to a monthly amount. The weekly pay of \$771.34, multiplied by 4.3, equaled \$3,316.76.**
12. **The Appellant's spouse's UCB benefit of \$221.00 per week had to be converted to a monthly amount. The weekly benefit of \$221.00, multiplied by 4.3, equaled \$950.30.**
13. **The Appellant's household had no income from self-employment.**
14. **The Appellant's wife's business operated at a loss because it generated no revenue but continued to be responsible for recurring expenses that were fixed and payable.**
15. 7 CFR § 273.11(a)(2)(i) provides that net self-employment income, which is the remainder after deducting from the total gross self-employment income the costs of producing the self-employment income, must be added to any other earned income received by the household to determine total monthly earned income.
16. 7 CFR § 273.11(a)(2)(ii) provides as follows:

If the cost of producing self-employment income exceeds the income derived from self-employment as a *farmer* (defined for the purposes of this paragraph (a)(2)(ii) as a self-employed farmer who receives or anticipates receiving annual gross proceeds of \$1,000 or more from the farming enterprise), such losses must be prorated in accordance with paragraph (a)(1) of this section, and then offset against countable income to the household as follows: (A) Offset *farm* self-employment losses first against other self-employment income. (B) Offset any remaining *farm* self-employment losses against the total amount of earned and unearned

income **after** the earned income deduction has been applied. (Emphasis added in italics, bolded in original)

17. **The net losses incurred by the Appellant's wife's business could not be used to offset any other earned or unearned income of the household. The net income from self-employment for the household was zero, however the business losses could not be taken into consideration in the SNAP determination of eligibility. SNAP regulations provide that only *farm losses* may be use to offset other household income.**
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. **Pursuant to SNAP rules, the Appellant's household size was five and his household's total countable gross monthly income was \$4,267.06.**
21. The standards used in the SNAP are adjusted each year on the first day of October. The Federal Poverty Standards applicable to the Appellant's SNAP eligibility determination are published in the Federal Register, Vol. 85, No. 12 / Friday, January 17, 2020, pp. 3060-3061
22. **185% of the FPL for a household of five persons was \$4,730.00 monthly. The Appellant's household's total income of \$4,267.06 was less than 185% of the FPL. His 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 either the gross or net income eligibility standards pursuant to 7 CFR § 273.9(a).**
23. **In the benefit determination, the Appellant's household's income and deductions must be calculated pursuant to 7 CFR § 273.9. Net income and SNAP benefit levels then must be 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 \$212.00 effective [REDACTED] 2020.

The *earned income deduction* is equal to "Twenty percent of gross earned income as defined in paragraph (c) of this section..." 7 CFR § 273.9(d)(2)

The Appellant's household qualified for an earned income deduction of twenty percent of his gross monthly earnings of \$3,316.76, which was equal to \$663.35.

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 qualified for two of the deductions in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9, the *standard deduction* and the *earned income deduction*. After deducting the \$212.00 *standard deduction* and the \$663.35 *earned income deduction* from the Appellant's household's total gross income, the remaining income was \$3,391.71 (\$4,267.06 total income - \$212.00 *standard deduction*, - \$663.35 *earned income deduction* = \$3,391.71).

50% of \$3,391.71 is \$1,695.86, 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 the costs of all utilities, thus his household qualified to have the SUA used in place of his actual costs in the calculation of the *excess shelter deduction*.

The Appellant's shelter expenses were \$2,102.00 (\$1,291.00 mortgage + \$75.00 homeowners insurance + \$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)

7 CFR § 271.2 defines *elderly or disabled member* as 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", or who is approved for certain other government payments for blindness or disability.

The Appellant's household did not contain an elderly or disabled member. His household's shelter deduction was, therefore, capped at the Department's maximum shelter deduction limit of \$586.00

The Appellant's excess shelter deduction was \$406.14 (\$2,102.00 shelter expenses - \$1,695.86 [50% of income remaining after subtracting deductions allowed under 7 CFR § 273.9(d)(1) to (d)(5)]) and was not limited by the cap.

The Appellant's net income after all deductions was \$2,985.57 (\$4,267.06 total gross income, minus \$212.00 standard deduction, minus \$663.35 earned income deduction, minus \$406.14 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 (\$2,985.57 multiplied by .3) was \$895.67; the figure was rounded up to \$896.00 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 \$807.00 effective [REDACTED] 2020.

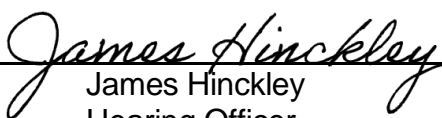
The Appellant's household was not eligible for a SNAP benefit because 30% of the household's net income was more than the maximum benefit for a household of five persons (\$896.00 (30% of net income) exceeded \$807.00 (maximum SNAP allotment)).

24. **The Department was correct when it determined that the Appellant did not qualify for a SNAP award beginning [REDACTED] 2020, and was correct when it discontinued his household's benefits effective [REDACTED] 2020.**

DECISION

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

cc: Tricia Morelli
Javier Rivera


James Hinckley
Hearing Officer

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.