

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

██████████ 2020
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 161963

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) denying her application for food stamp benefits under the Supplemental Nutrition Assistance Program ("SNAP") effective ██████████ 2020.

On ██████████, 2020, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

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 via teleconference.

The following individuals called in for the hearing:

████████████████████, Appellant
Carmen Ferrer, Department Representative
Lisa Nyren, Fair Hearing Officer

The record remained open for the submission of additional evidence. On [REDACTED] 2020, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for benefits under the SNAP effective [REDACTED] 2020 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2020, the Appellant submitted an online application for benefits under the SNAP to the Department for a household of three: herself, her daughter and her son. (Exhibit 1: Proofs We Need, Exhibit 2: Case Notes, and Exhibit 6: Notice of Action)
2. On [REDACTED] 2020, the Department issued the Appellant a Proofs We Need form requesting proof of source of income, proof of child support, and proof of unemployment compensation. The Department listed the due date for the requested information as [REDACTED] 2020. (Exhibit 1: Proofs We Need)
3. On [REDACTED] 2020, the Department received some of the requested information that included identification, citizenship, and information regarding an out of state unemployment insurance claim. (Exhibit 2: Case Notes and Exhibit 3: [REDACTED] Department of Labor)
4. The Appellant is [REDACTED] years old and not disabled. (Appellant's Testimony)
5. The daughter is [REDACTED] years old and not disabled. (Appellant's Testimony)
6. The son is [REDACTED] [REDACTED] years old and not disabled. (Appellant's Testimony)
7. The Appellant received extended unemployment insurance benefits ("EB") from the [REDACTED] of \$504.00 per week after exhausting her eligibility under regular unemployment insurance (UI) benefits and Pandemic Emergency Unemployment Compensation (PEUC) benefits. (Appellant's Testimony and Exhibit 3: [REDACTED] Department of Labor)
8. On [REDACTED] 2020, the Appellant completed the application interview with the Department. The Appellant reported receiving weekly EB of

\$504.00. The Appellant reported EB eligibility ending as of [REDACTED] 2020. (Exhibit 2: Case Notes, Exhibit 3: [REDACTED] Department of Labor, and Appellant's Testimony)

9. The Department calculated the Appellant's monthly gross EB as \$2,167.20 per month. $\$504.00 \times 4.3 = \$2,167.20$. (Department Representative's Testimony and Exhibit 5: Computation Sheet)
10. The Appellant received the following child support income as administered by the [REDACTED]. (Stipulated)

Payment Date	Payment Amount	Disbursement Date	Amount Disbursed	Payee Name
[REDACTED]/20	\$1,260.00	[REDACTED]/20	\$1,260.00	Appellant
[REDACTED]/20	\$1,260.00	[REDACTED]/20	\$1,260.00	Appellant
[REDACTED]/20	\$1,260.00	[REDACTED]/20	\$1,225.00	Appellant
		[REDACTED]/20	\$35.00	Fees
[REDACTED]/20	\$1,260.00	[REDACTED]/20	\$1,260.00	Appellant

11. The Department calculated the Appellant's monthly gross child support as \$1,248.33 per month. $\$1,260.00$ [REDACTED] 2020 + $\$1,225.00$ [REDACTED] 2020 + $\$1,260.00$ [REDACTED] 2020 + $\$00.00$ [REDACTED] 2020 = $\$3,745.00 / 3$ months = $\$1,248.33$ per month or $\$624.16$ per child. (Exhibit 4: Child Support, Exhibit 5: Computation Sheet, and Exhibit 6: Notice of Action)
12. The Appellant owns her own home and pays \$2,781.56 mortgage monthly. The monthly mortgage includes home owners insurance and real estate taxes. (Appellant's Testimony and Exhibit 7: Supporting Documents)
13. The Department calculated the household's monthly gross income as \$3,415.52. $\$624.16$ CS for daughter + 624.16 CS for son + $\$2,167.20$ EB = $\$3,415.52$. (Exhibit 4: Child Support, Exhibit 5: Computation Sheet, and Exhibit 6: Notice of Action)
14. The SNAP gross income limit for a household of three is \$3,289.00 per month. (Department Representative's Testimony)
15. The Department determined the household ineligible for benefits under the SNAP because the household's monthly gross income of \$3,415.52 exceeds the SNAP gross income limit of \$3,289.00 per month for a household of three. (Hearing Record)
16. On [REDACTED], 2020, the Department issued a notice of action. The notice stated the Department denied the Appellant's application for SNAP for the reasons the monthly gross income of your household is more than

the limit for this program and does not meet program requirements. (Exhibit 6: Notice of Action)

17. The issuance of this decision is timely under Executive Order 7M issued on March 25, 2020 which extends the time frame required to issue a decision under Connecticut General Statutes § 17b-61(a) from 90 days to 120 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2020. Therefore, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) states, “The Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.”
2. Title 7 of the Code of Federal Regulations (“C.F.R.”) Section 273.2(a)(2) provides as follows:

The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency must act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. States must meet application processing timelines, regardless of whether a State agency implements a photo EBT card policy. The State agency must make expedited service available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

Section 1500.01 of the Uniform Policy Manual states, “The application process is all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with disposition of the application.”

“The application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit’s initial eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance.” UPM § 1505

3. “The department’s uniform policy manual 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))

4. "Households must file SNAP applications by submitting the forms to the SNAP office either in person, through an authorized representative, by mail, by completing an on-line electronic application, or, if available, by fax, telephone, or other electronic transmission." 7 C.F.R. § 273.2(c)(1)(i)

"Individuals who desire to obtain aid must file a formal request for assistance." UPM § 1505.10(B)(1)

"The formal request must be made in writing on the application form." UPM § 1505.10(B)(2)

5. Federal regulation provides as follows:

The date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day. For online applications, the date of application is the date the application is submitted, or the next business day if it is submitted after business hours. For telephonic applications, the date of application is the date on which the household member provides verbal assent.

7 C.F.R. § 273.2(c)(1)(iv)

"The date of application is the date a formal written request for assistance is filed with the Department in accordance with the rules established for the program for which application is made." UPM § 1500.01

"For Food Stamps applications, except as noted below in 1510.10D.4, the date of application is considered to be the date that a signed application form is received by: the appropriate District Office designated to serve the applicant's geographic region of resident." UPM § 1505.10(D0(3)(a)

6. The Department correctly determined the Appellant filed an application for benefits under the SNAP.
7. The Department correctly determined the Appellant's application date as [REDACTED] 2020.
8. Federal regulation provides as follows:

Notice of Required Verification. The State agency shall provide each household at the time of application for certification and recertification with

a notice that informs the household of the verification requirements the household must meet as part of the application process. The notice shall also inform the household of the State agency's responsibility to assist the household in obtaining required verification provided the household is cooperating with the State agency as specified in (d)(1) of this section. The notice shall be written in clear and simple language and shall meet the bilingual requirements designated in §272.4(b) of this chapter. At a minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.

7 C.F.R. § 273.2(c)(5)

“The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.” UPM § 1015.05(C)

“The Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit’s rights and responsibilities.” UPM § 1015.10(A)

9. “*Verification.* Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification. Paragraph (i)(4) of this section contains verification procedures for expedited service cases.” 7 C.F.R. §273.2(f)

“Verification is the act of confirming a fact, circumstance or condition through direct evidence or other reliable documentation or collateral contact.” UPM § 1500.01

“The applicant is considered responsible for incomplete applications if the Department has taken the following actions: with the exception of (3) below, has allowed at least ten days from the date it notifies the applicant of a required action for the applicant to complete the action, including requests to provide verification.” UPM § 1505.40(C)(1)(c)

10. Federal regulation provides as follows:

The State agency may use a telephone interview instead of the face-to-face interview required in paragraph (e)(1) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or

training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone. The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

7 C.F.R. § 273.2(e)(2)

“In certain programs, the applicant may be required to appear at an appropriate certification site for a face to face interview, unless the applicant is entitled to a waiver of the requirement.” UPM § 1505.30(A)(1)

“For the FS program, the Department conducts a telephone interview or a home visit once every twelve months if the office interview is waived.” UPM § 1505.30(G)(3)

“The purpose of the application interview is: to explore any other issues related to need or eligibility which are unclear or unresolved.” UPM § 1505.30(C)(1)(d)

11. Federal regulation provides as follows:

Discrepancies. Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in §272.8, the State agency may obtain verification from a third party as specified in paragraph (f)(9)(v) of this section.

7 C.F.R. § 273.2(f)(4)(iv)

“The assistance unit may submit any evidence which it feels will support the information provided by the unit.” UPM § 1540.10(B)

“Failure to provide required verification may result in the following actions where appropriate to the particular circumstance in question: the Department may refrain from taking action until further clarification is obtained.” UPM § 1599.05(D)(2)

12. Federal regulation provides as follows:

Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household shall be entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. The same application shall be used for the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in §273.2.

7 C.F.R. § 273.10(a)(3)

Federal regulation provides as follows:

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.

7 C.R.F. § 273.10(c)(1)(i)

Federal regulation provides:

Gross nonexempt income. Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the State agency, and all other sources of verification are unavailable, the eligibility worker shall determine an amount to be used for certification purposes based on the best available information

7 C.F.R. § 273.2(f)(1)(i)

Department policy provides as follows:

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:

- a. Information about what the unit received in similar past periods of time; and
- b. A reasonable anticipation of what circumstances will exist to affect the receipt of income in future months.

UPM § 5025.05(A)(2)

“All income must be verified as an eligibility requirement at the time of application, at each redetermination of eligibility and whenever the income changes.” UPM § 5099.05

13. Federal regulation provides as follows:

The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level. The State agency shall establish guidelines to be followed in determining what shall be considered questionable information. These guidelines shall not prescribe verification based on race, religion, ethnic background, or national origin. These guidelines shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision.

7 C.F.R. § 273.2(f)(2)(i)

“Prior to making an eligibility determination the Department conducts a thorough investigation of all circumstance relating to eligibility and the amount of benefits.” UPM § 1505.40(A)(1)

14. Federal regulation provides as follows:

Normal processing standard—(1) Thirty-day processing. The State agency shall provide eligible households that complete the initial application process an opportunity to participate (as defined in §274.2(b)) as soon as possible, but no later than 30 calendar days following the date the application was filed, except for residents of public institutions who apply jointly for SSI and SNAP benefits prior to release from the institution in accordance with §273.11(i). An application is filed the day the appropriate SNAP office receives an application containing the applicant's name and address, which is signed by either a responsible member of the household or the household's authorized representative. Households entitled to expedited processing are specified in paragraph (i) of this section. For residents of public institutions who apply for SNAP benefits prior to their release from the institution in accordance with §273.11(i), the State agency shall provide an opportunity to participate as soon as possible, but not later than 30 calendar days from the date of release of the applicant from the institution.

7 C.F.R. § 273.2(g)(1)

“The following promptness standards are established as maximum time periods for processing applications: thirty calendar days for eligible FS applicants that do not qualify for expedited service.” UPM § 1505.35(C)(1)(a)

“The Department may complete the eligibility determination at any time during the application process when: (c) the application process is complete and all required verification has been obtained; or (d) adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied.” UPM § 1505.40(A)(4)

“If assistance cannot be granted: FS application are denied on the thirtieth day following the date of application.” UPM § 1505.40(B)(1)(b)(2)

15. The Department incorrectly denied the Appellant's application for benefits under the SNAP. The Department failed to consider the Appellant's statement made at the time of the application interview informing the Department EB were ending. Federal regulation states the Department shall not automatically attribute to the household the amounts of any past income when changes have occurred, yet the Department failed to consider the termination of EB in the month of application. The Department denied the Appellant's application for benefits under the SNAP the same day of the interview failing to allow the Appellant a reasonable opportunity to resolve the income discrepancies and obtain income verification prior to a determination of eligibility. The Department failed to allow the Appellant a minimum of 10 days to submit the requested income information. The Department issued the Appellant a request for

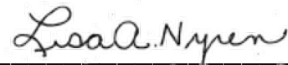
verification on [REDACTED] 2020 but the Department denied the Appellant's application on [REDACTED] 2020, prior to the [REDACTED] 2020 due date listed on the request for verification. The Department failed to conduct a thorough investigation of eligibility when the Department failed to explore with the Appellant further clarification of her income and eligibility for EB and failed to give her a reasonable opportunity to verify her statements.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department must reopen the Appellant's application for benefits under the SNAP effective [REDACTED] 2020 and continue to process eligibility. The Department is instructed to explore and resolve any unclear or incomplete information that includes documentation of the Appellant's eligibility for EB and proof of weekly gross benefits received since date of application. The Department must issue a request for verification for any outstanding information needed to determine eligibility and allow the Appellant a minimum of 10 days to submit the information to the Department.
2. Compliance is due 10 days from the date of this decision.



Lisa A. Nyren
Fair Hearing Officer

CC: Yecenia Acosta, DSS RO 32
Carmen Ferrer, DSS RO 32

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.

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.