

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

Client ID # ██████████
Request # 162423

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) denying her application for Supplemental Nutrition Assistance Program (“SNAP”) benefits because she did not fully cooperate with the eligibility process.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s denial of her application for 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. The Appellant had no objection to the hearing being held telephonically. The following individuals were present at the hearing:

██████████ Appellant
Jerrett Wyant, Department’s Hearing Liaison
James Hinckley, Hearing Officer

The hearing record was held open to allow time for the Appellant to submit supporting evidence. On [REDACTED] 2020, the hearing record closed.

STATEMENT OF THE ISSUE

Whether the Department was correct when it denied the Appellant's SNAP application for not fully cooperating with the application process.

FINDINGS OF FACT

1. The Appellant was admitted to [REDACTED] Hospital on [REDACTED] 2020. A [REDACTED] 2020 letter the Appellant acquired from the hospital stated that she "is unable to return to school/work until cleared by her surgeon at follow-up." (Ex. B: Letter from [REDACTED] Hospital)
2. On [REDACTED] 2020, the Appellant applied for SNAP. (Hearing Record)
3. The Appellant reported on the application form "Can't walk due to an accident. Had surgery on my right knee & ankle." (Ex.7: Page from Application Form)
4. On [REDACTED] 2020, the Department completed a SNAP application interview with the Appellant by telephone. (Testimony, Hearing Record)
5. On [REDACTED] 2020, a Department Eligibility Worker entered a case note indicating that the Department of Labor reported earnings for the Appellant at [REDACTED] in the first quarter of 2020, and that its employment verification service listed the Appellant as still being an active employee with [REDACTED] and [REDACTED]. (Ex. 5: Case Notes)
6. On [REDACTED] 2020, the Department requested certain items of information and verification from the Appellant, including a request to "Please provide verification of last date of work with [REDACTED]" and "Please provide reason for loss of employment with: [REDACTED], [REDACTED] and [REDACTED]." (Ex. 4: W-1348 *Proofs We Need* form)
7. On [REDACTED] 2020, the Appellant initiated a request by text message to her employer, [REDACTED] asking for a termination letter. Her manager responded on [REDACTED] 2020 that he would write the letter the following day. On [REDACTED] 2020, the manager responded that he completely forgot about it. On [REDACTED] 2020, the Appellant sent another reminder to the manager. (Ex. E: Screen captures of text message exchange with [REDACTED] manager)
8. On [REDACTED] 2020, the Appellant initiated a request by text message to her employer, [REDACTED] asking for a termination letter. On [REDACTED] 2020, her manager responded that she would "figure it out tomorrow." On [REDACTED] 2020, the Appellant sent a reminder to the manager. On [REDACTED] 2020, the manager

responded, “The company doesn’t do letters like that...” and “I will figure it out tomorrow....” On [REDACTED] 2020, the manager informed the Appellant that she would have to contact the corporate office by telephone. On [REDACTED] 2020, the Appellant informed the manager that she had called the corporate office twice and left two messages but did not receive a response. On [REDACTED] 2020, the Appellant asked how she could contact the District Manager. On [REDACTED] 2020, the manager responded that she would write a letter that the Appellant could pick up on the following day. (Ex. C: Screen captures of text message exchange with [REDACTED] manager)

9. On [REDACTED] 2020, the Store Manager at [REDACTED] sent an email to the Appellant that stated, “(the Appellant) is currently employed with [REDACTED] but because of personal reasons she has not worked since [REDACTED] 2020 and she will not be returning unless cleared by her doctor. If you have any questions or concerns, please feel free to call me at (telephone number redacted).” The email originated from an address @ [REDACTED].com. (Ex. A: Email from [REDACTED] Store Manager)
10. On [REDACTED] 2020, the Department located a hand-written letter that the Appellant sent in on [REDACTED] 2020. The letter stated, in pertinent part, “I’m writing this letter to address that I’m no longer employed due to my surgery. I have a letter written by one employer but did not get a response from [REDACTED] and [REDACTED]. I haven’t been employed through since the pandemic and now I can’t go back until surgeon clears me to go. [REDACTED] did send me a letter which I am providing today....” (Ex. 1: Letter from Appellant)
11. On [REDACTED] 2020, a Department Eligibility Worker entered a case note that stated, in pertinent part, “The letter provided by [REDACTED] is dated [REDACTED]-20 and it’s somewhat blurry and difficult to read. The client’s ldw (last day worked) was [REDACTED]-2020 and will return to work when the doctor releases her. The letter does not verify date of last check and does not verify if the client is on FMLA paid/unpaid or not on any medical leave. Case remains pending.” (Ex. 10: Case Notes)
12. The Department did not submit a copy of the letter from [REDACTED] as evidence for the hearing. (Hearing Record)
13. The Department did not ask, on the W-1348 *Proofs We Need* form it sent to the Appellant on [REDACTED] 2020, for proof of the date of the Appellant’s last check, or for proof of whether she was on Family and Medical Leave (FMLA). It only asked for “verification of last date of work with [REDACTED]”, and for “reason for loss of employment with [REDACTED], [REDACTED] and [REDACTED].” (Ex. 4)
14. On [REDACTED] 2020, a Department Eligibility Worker entered a case note stating that the Appellant called and that she “stated that she provided a had written letter as verification . dss will not accept the letter . head letter from the company

will be accepted. case is still pending .no action taken .” It is unclear what letter from what company the Eligibility Worker was referring to in the case note. (Ex. 5)

15. The Department did not attempt to contact any of the Appellant’s former employers, by telephone, or by sending wage verification request forms. (Hearing Liaison’s testimony)
16. The Department did not send the Appellant a second W-1348 *Proofs We Need* form. (Hearing Record)
17. On ██████████ 2020, a Department Eligibility Worker entered a case note that stated, “30 day review Sufficient income proofs not rcvd. Snap denied.” (Ex. 10)
18. On ██████████ 2020, the Department issued an NOA to the Appellant denying her application for SNAP. The reasons given for the denial were, “No household members are eligible for this program”, and “Did not fully cooperate with the eligibility process”, and “Does not meet program requirements.” (Ex. 9: 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 (C.F.R.) § 273.2(a)(1) provides that “The State agency must base SNAP eligibility solely on the criteria contained in the Act and this part”.
3. 7 C.F.R. § 273.2(d)(1) provides, in pertinent part, that “[C]ertain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by paragraph (c)(5) of this section.... *The State agency shall not determine the household to be ineligible when a person outside of the household fails to cooperate with a request for verification....* (emphasis added)
4. 7 C.F.R. § 273.2(c)(5) provides, in pertinent part, that “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...."

5. **The request for information that the Department sent was unclear, or else the Department afterward modified the information it determined was needed. The request it sent did not inform the Appellant that she needed to verify the date of her last pay, or that she had to verify whether she was on Family and Medical Leave.**
6. **The Appellant did not refuse to cooperate during the application process. She made repeated attempts to contact each of her employers. She reported her efforts to the Department and reported that she was having difficulty obtaining the requested information.**
7. **Following the Appellant's report that she was having difficulty obtaining the requested verification the Department did not notify her of the Department's responsibility to assist her in the process. The Department did not attempt to contact any of the employers by telephone or send wage verification request forms to any of the companies.**
8. **7 C.F.R. § 273.2(d)(1) (cited in 3. above) prohibits the Department from denying a SNAP application "when a person outside of the household fails to cooperate with a request for verification." The Appellant's application should not have been denied because it was the Appellant's employers that failed to cooperate, not the Appellant.**
9. 7 C.F.R. § 273.2(f)(1) provides, in pertinent part, that "Mandatory verification. State agencies shall verify the following information prior to certification for households initially applying: (i) 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....*" (emphasis added)
10. **The Department did not exhaust all attempts to verify the Appellant's income, because it did not attempt to acquire the information itself. But if, at some point, all attempts to acquire the information were judged futile due to non-response from the employers, the Department was required by regulation to "determine an amount to be used for certification purposes based on the best information available."**

11. 7 C.F.R. § 273.2(h)(1)(i)(C) provides, in pertinent part, that “The State agency must have taken the following actions before a delay can be considered the fault of the household:...(C) In cases where verification is incomplete, the State agency must have provided the household with a statement of required verification and offered to assist the household in obtaining required verification and allowed the household sufficient time to provide the missing verification. Sufficient time shall be at least 10 days from the date of the State agency’s initial request for the particular verification that was missing.
12. “Delays that are the fault of the State agency include, but are not limited to, those cases where the State agency failed to take the actions described in paragraphs (h)(1)(i) (A) through (D) of this section.” 7 C.F.R. § 273.2(h)(1)(ii)
13. 7 C.F.R. § 273.2(h)(3)(i) provides that “Whenever a delay in the initial 30-day period is the fault of the State agency, the State agency shall take immediate corrective action. Except as specified in §§ 273.2(f)(1)(ii)(F) and 273.2(f)(10)(i), the State agency shall not deny the application if it caused the delay, but shall instead notify the household by the 30th day following the date the application was filed that its application is being held pending. The State agency shall also notify the household of any action it must take to complete the application process. If verification is lacking the State agency has the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing.”
14. **The Department was responsible for the delay in the initial 30-day period because it did not offer to assist the Appellant in obtaining required verification. The Department was required to hold the application pending into a second 30-day period. If the verification could not be acquired, the Department was prohibited from denying the application due to a third party’s failure to cooperate with a request for verification. In that case, the application had to be granted based on the best available information.**
15. **The Department was incorrect when it denied the Appellant’s SNAP application for not fully cooperating with the application process.**

DECISION

The Appellant’s appeal is **GRANTED.**

ORDER

1. The Department must reopen and process the Appellant’s SNAP application effective [REDACTED] 2020.
2. The Department must send proof directly to the undersigned Hearing Officer that the above order has been complied with, by no later than [REDACTED] 2020.

James Hinckley
James Hinckley
Hearing Officer

cc: Patricia Ostroski
Jerrett Wyant

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.