

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

██████████ 2020
Signature confirmation

Case: ██████████
Client: ██████████
Request: 162917

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a *Notice of Action* denying her ██████████ 2020 Supplemental Nutrition Assistance Program ("SNAP") application.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received the Appellant's ██████████ 2020 postmarked request for an administrative hearing.

On ██████████ 2020, the OLCRAH scheduled an 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, the OLCRAH held an administrative hearing. The following individuals attended the hearing:

██████████, Appellant
Rose Montinat, Department's Representative
Eva Tar, Hearing Officer
Joseph Alexander, Hearing Officer, Observer
Sara Hart, Hearing Officer, Observer

The administrative hearing record closed ██████████ 2020.

STATEMENT OF ISSUE

The issue is whether the Department's denial of the Appellant's [REDACTED] 2020 SNAP application was supported by federal regulations governing that program.

FINDINGS OF FACT

1. The Appellant works per diem for the [REDACTED]. (Appellant Testimony) (Dept. Exhibit 2)
2. On [REDACTED] 2020, the Appellant filed an online SNAP application. (Dept. Exhibit 1)
3. On [REDACTED] 2020, the Department issued a *Worker Generated Request for Proofs* asking the Appellant to submit verification of her [REDACTED] 2020 wages by [REDACTED] 2020. (Dept. Exhibit 10)
4. The Appellant submitted the following biweekly paystubs for these pay dates: [REDACTED] 2020; [REDACTED] 2020; [REDACTED] 2020; [REDACTED], 2020; [REDACTED] 2020; and [REDACTED] 2020. The paystubs identified the Appellant's gross wages, net wages, and running year-to-date totals. (Dept. Exhibit 3)
5. In the three-month period from [REDACTED] 2020 through [REDACTED] 2020, there is a span of 14 weeks, or seven biweekly pay periods.
6. The [REDACTED] 2020 paystub identified the Appellant's gross wages as \$1,146.88 with a year-to-date figure of \$7,949.76. (Dept. Exhibit 3)
7. The [REDACTED] 2020 paystub identified the Appellant's gross wages as \$1,266.06 with a year-to-date figure of \$19,196.91. (Dept. Exhibit 3)
8. In calculating monthly per diem income, the Department uses the three consecutive months of income immediately prior to the application date to calculate an average. (Department's Representative Testimony)
9. On [REDACTED], 2020, the Department issued a *Notice of Action* denying the Appellant's [REDACTED] 2020 SNAP application, identifying the reason for the denial to be a failure to fully cooperate with the eligibility process. (Dept. Exhibit 11)
10. The Department denied the Appellant's [REDACTED] 2020 SNAP application because the Appellant had not submitted all her paystubs for [REDACTED] 2020. (Department's Representative Testimony) (Dept. Exhibit 13)
11. Title 7, Code of Federal Regulations ("C.F.R.") section 273.15 (c)(1) provides in part that "[w]ithin 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision...." On [REDACTED] 2020, the OLCRAH received the Appellant's [REDACTED] 2020 postmarked hearing request. The issuance of this decision would have been due by [REDACTED] 2020. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department of Social Services 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, Code of Federal Regulations ("C.F.R.") section 273.2 (a)(2) provides in part that "[t]he application process includes filing and completing an application form, being interviewed, and having certain information verified...."

"Gross nonexempt income shall be verified for all households prior to certification...." 7 C.F.R. § 273.2 (f)(1)(i).

Federal regulations governing the SNAP required the Department to verify the Appellant's gross monthly wages prior to granting her SNAP application.

3. "Information provided by the household shall be verified in accordance with § 273.2 (f)(8)(i). The State agency shall provide the household a notice of required verification as provided in § 273.2 (c)(5) and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 days to provide required verification information...." 7 C.F.R. § 273.14 (b)(4).

"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...." 7 C.F.R. § 273.2 (f).

The Department correctly requested from the Appellant verification of her income and correctly assigned a deadline of at least 10 days to submit that verification.

4. Title 7, Section 273.10 (c)(1)(ii) of the Code of Federal Regulations provides:
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. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income....
7 C.F.R. § 273.10 (c)(1)(ii).

"Income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households...." 7 C.F.R. § 273.10 (c)(3)(i).

The Department's use of an average of three months of wages to represent an individual's anticipated earned income when that income fluctuates complied with 7 C.F.R. § 273.10 (c)(1)(ii) and (c)(3)(i).

5. "Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination." 7 C.F.R. § 273.2 (f)(6).

"The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information." *The State agency must accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application...* 7 C.F.R. § 273.2 (f)(5)(i) (emphasis added).

The Appellant's submitted paystubs containing year-to-date running totals spanning from [REDACTED] 2020 through [REDACTED] 2020 was "reasonable documentary evidence" of the Appellant's gross wages in the four-month period immediately prior to the filing of her [REDACTED] 2020 SNAP application.

6. Title 7, Code of Federal Regulations section 273.10 (c)(2)(i) provides:
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....
7 C.F.R. § 273.10 (c)(2)(i).

For the three-month period immediately prior to the filing of her [REDACTED] 2020 SNAP application, the Appellant grossed \$9,981.09 in wages. [\$19,196.91 (ytd on [REDACTED] paystub) minus \$1,266.06 ([REDACTED] gross wages) minus \$7,949.76 (ytd on [REDACTED] paystub)]

From [REDACTED] 2020 through [REDACTED] 2020, the Appellant's average gross wages per biweekly pay period equaled \$1,425.87. [\$9,981.09 divided by seven biweekly pay periods]

The Appellant's gross monthly anticipated wages equaled \$3,065.62. [\$1,425.87 (average gross wages for a biweekly pay period) multiplied by 2.15 pay periods per month]

The biweekly paystubs submitted by the Appellant to the Department were adequate to calculate a three-month average of her gross wages immediately prior to the filing of her [REDACTED] 2020 SNAP application.

The Department's denial of the Appellant's [REDACTED] 2020 SNAP application for failure to fully cooperate with the eligibility process was not supported by state and federal regulations governing that program.

DECISION

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

ORDER

1. The Department will reopen the Appellant's [REDACTED], 2020 SNAP application.
2. The Department will use the three-month average of \$3,065.62 per month to represent the Appellant's anticipated gross monthly wages.
3. Within 14 calendar days of the date of this decision, or [REDACTED] 2020, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Pc: Rose Montinat, DSS-Hartford
Jay Bartolomei, DSS-Hartford
Musa Mohamud, DSS-Hartford
Judy Williams, DSS-Hartford
Jessica Carroll, DSS-Hartford

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.

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 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.