

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

██████████
██████████
Hearing Request # 163415

NOTICE OF DECISION
PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

██████████, 2020, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") advising her that her Supplemental Nutrition Assistance Program ("SNAP") benefits would be \$100.00 per month, effective ██████████ 2020.

██████████, 2020, the Appellant requested an administrative hearing because she disagrees with the amount of her SNAP benefits.

██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2020.

██████████, 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. Due to COVID-19 concerns, the hearing was held telephonically. No party objected to the hearing being held in that manner.

The following individuals were present at the telephonic hearing:

██████████, the Appellant
Debra James, Department's Representative
Veronica King, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's [REDACTED] 2020 and ongoing SNAP benefits.

FINDINGS OF FACT

1. The Appellant is a recipient of the SNAP program. She receives SNAP benefits for herself only. (Appellant's Testimony and Hearing Record)
2. The Appellant is [REDACTED] years old, DOB [REDACTED] (Appellant's Testimony)
3. [REDACTED] 2020, the Department received a W-1ER Renewal of Eligibility form ("W1ER") from the Appellant. The Appellant provided verification of her pension unearned gross income of \$973.00 per month and she receives \$465.00 per month in Social Security benefits. (Exhibit 3: W1ER, Exhibit 4: Verification of Pension and Hearing Record)
4. [REDACTED] 2020, the Department processed the Appellant's redetermination form to determine eligibility for the SNAP benefits beyond the certification period. The Appellant had a total unearned income of \$1,438.00 per month (pension \$973 + SSA \$465) based on the reported income. (Exhibit 3 and Exhibit 4)
5. The Appellant is responsible for \$800.00 per month for rent and is responsible for heating and cooling. (Appellant's Testimony)
6. [REDACTED] 2020, the Department sent the Appellant an NOA informing the Appellant that she will receive \$100.00 per month in SNAP benefits effective [REDACTED] 2020. (Exhibit 2: NOA, [REDACTED]/20)
7. [REDACTED], 2020, the Department determined that the Appellant had a total unearned income of \$1,430.27.00 per month (pension \$965.27 + SSA \$465). (Exhibit 2)
8. [REDACTED], 2020, the Department's records showed that the Appellant had \$207.90 per month in medical expenses. (Department's Representative's Testimony)
9. It is not clear why the Department's records were showing \$207.90 per month in medical expenses. (Hearing Record)
7. 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 fair 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 (“CFR”) § 273.14(a) provides as follows: General. No household may participate beyond the expiration of the certification period assigned in accordance with §273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.
3. Title 7 of the Code of Federal Regulations (“CFR”) § 273.12(a)(5)(iii)(A) provides that the State agency may require a household to submit a periodic report on its circumstances from once every 4 months up to once every 6 months.
4. “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*, 2017 Conn. 601, 573 A.2d 712 (1990)).

The Department correctly sent the Redetermination Form of eligibility to the Appellant.

5. Title 7 of CFR § 273.9 (b)(2)(ii) provides that unearned income shall include, but not be limited to: Annuities, pensions, retirement, veteran’s, or disability benefits, worker’s or unemployment.

UPM § 5005(A)(1) provides in relevant part the Department counts the assistance units available income, and that income is considered available if it is received directly by the assistance unit.

The Department correctly determined that the Appellant’s pension and Social Security unearned income must be included when calculating the SNAP benefits for the assistance unit.

■ ■ ■ 2020, the Department incorrectly determined that the Appellant’s total unearned income was \$1,430.27.00.

5. Title 7 of CFR § 273.9(d)(1)&(3) provides for standard deductions and excess medical deductions.

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

UPM § 5035.15 (E) provides that members of the assistance unit who are elderly or disabled are allowed medical expenses as deductions. An elderly or disabled assistance unit member who provides an estimate of the medical expenses he or she expects to incur over a certification period that does not exceed twelve months can choose to have medical expenses averaged over the certification period.

The Department correctly determined that the Appellant's household does contain an elderly or disabled household member.

██████████, 2020, he Department incorrectly determined that the Appellant had \$207.09 per month in medical expenses.

6. UPM § 5045.15 provides that the amount of applied income upon which the level of SNAP benefits is based is calculated in the following way:

- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 1. the actual amount of self-employment expenses, if applicable; and
 2. any earned income deductions approved by the Social Security Administration in regards to individual self-support plans (Cross reference: 5035.15); and
 3. a deduction of 20% of the gross earnings for personal employment expenses.
- B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
- C. The amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:
 1. a deduction for farming losses, if any;
 2. a disregard of \$167.00 per month; {effective October 1, 2019}
 3. a deduction for unearned income to be used to fulfill a bona-fide plan to achieve self-support (PASS); Cross reference: 5035.15
 4. the appropriate deduction for work related dependent care expenses;
 5. deduction for allowable medical expenses for those assistance unit members who qualify;
 6. a deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
 7. a deduction for shelter hardship, if applicable.

(Cross References: 5030 - "Income Disregards" and 5035 "Income Deductions")

- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

There is no evidence in the record supporting the calculation of the Appellant's amount of applied income upon which the level of SNAP benefits is based is calculated.

DISCUSSION

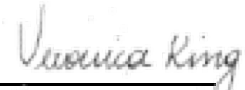
The Appellant provided the Department with verification of her pension at redetermination time however the Department incorrectly entered a wrong amount when it is calculating the Appellant's SNAP eligibility. In addition, the Department did not properly verify the Appellant's medical expenses and could not provide evidence that it accurately determined the amount of the Appellant's SNAP benefits.

DECISION

The Appellant's appeal is **REMANDED** to the Department for further processing.

ORDER

1. The Department shall recalculate the SNAP benefits for the month of [REDACTED] 2020 and ongoing using all applicable regulations (Income, Medical expenses and Shelter expenses).
2. Compliance with this order is due back to the undersigned by [REDACTED] 2020.



Veronica King
Hearing Officer

Cc: Rachel Anderson, Cheryl Stuart, Lisa Wells, DSS Operations Manager, RO #20 New Haven.
Debra James, Department's Representative, Fair Hearing Liaison RO#20 New Haven.

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 06105-3725.

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 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.