

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

CL ID # ██████████
Case ID# ██████████
Request # 163763

NOTICE OF DECISION

PARTY

██████████
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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) issued to ██████████ (the “Appellant”) a Notice of Action, denying her Supplemental Nutritional Assistance Program (“SNAP”) benefits.

On ██████████ 2020, the Appellant requested an administrative hearing because she disagrees with the denial of SNAP 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. The following individuals were present at the hearing:

██████████, the Appellant
Kristin Haggan, Department’s Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's SNAP benefits.

FINDINGS OF FACT

1. On [REDACTED], 2019, the Department determined the Appellant paid child support to the child's father. A prior DSS investigation determined the child's father as the custodial parent. (Ex. 5: Case notes)
2. On [REDACTED] 2020, the Appellant applied for SNAP benefits for herself and her daughter for a household of two. (Hearing Summary, Appellant's testimony, Exhibit 5: Case Notes [REDACTED] 2020)
3. On [REDACTED] 2020, the Department sent the Appellant a W-1348, Proof We Need Form. The Department requested the Appellant provide wages or last date of work from employment at [REDACTED]. The due date for the requested information was [REDACTED]/2020. (Exhibit 6: W-1348, [REDACTED]/2020)
4. On [REDACTED] 2020, the Appellant contacted the Department and completed the SNAP telephone interview. The Department requested the Appellant provide a custody agreement. (Appellant's testimony, Hearing Summary and Exhibit 5: Case notes: [REDACTED]/2020)
5. The Appellant is employed by [REDACTED] and received the following gross weekly wages: [REDACTED]/2020 \$600.00; [REDACTED]/2020 \$600.00; [REDACTED]/2020 \$596.25 and [REDACTED] 2020 \$596.50 (Appellant's testimony, Exhibit 3: Earned Income Worksheet, Exhibit 4: The Worker Number income verification, Exhibit 5: Case Notes, [REDACTED]/2020)
6. The Appellant has a weekly Daycare expense of \$80.00. (Appellant's testimony, Hearing Summary)
7. The Appellant's rent is \$1000.00 monthly. (Appellant's testimony, Hearing Summary)
8. The Appellant is responsible for heating expenses. (Appellant's testimony)
9. On [REDACTED], 2020, the Department processed the Appellant's [REDACTED], 2020 application as a household of one. (Department's Hearing Summary, Exhibit 5: Case notes)
10. On [REDACTED], 2020, the Department sent the Appellant a Notice of Action denying SNAP benefits. The notice stated, "The monthly gross income of your

household is more than the limit for this program.” (Exhibit 1: Notice of Action, [REDACTED]/2020)

11. The Department did not provide the Appellant a second W-1348 giving an additional 10 days to provide the custody agreement. The application was denied before the 30th day from the application date. (Department’s testimony)
12. 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. “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)).
3. Title 7 of the Code of Federal Regulations (CFR) § 273.1(a)(3) provides for general household definition and states that a household is composed of one of the following individuals or groups of individuals unless otherwise specified in paragraph (b) of this section: A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

The Department incorrectly determined the Appellant’s household size consists of one person when it did not allow the Appellant time to submit proof of a custody agreement.

4. Title 7 of the CFR § 273.2(e)(1) provides that except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this section, households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State agencies may not require households to report for an in-office interview during their certification period, though they may request households to do so. For example, State agencies may not require households to report en masse for an in-office interview during their certification periods simply to review their case files, or for any other reason. State agencies may not require an in person interview solely to take a photo. Interviews may be conducted at the SNAP office or other mutually acceptable location, including a household’s residence. If the interview will be conducted at the

household's residence, it must be scheduled in advance with the household. If a household in which all adult members are elderly or disabled is certified for 24 months in accordance with §273.10(f)(1), or a household residing on a reservation is required to submit monthly reports and is certified for 24 months in accordance with §273.10(f)(2), a face-to-face interview is not required during the certification period. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The applicant may bring any person he or she chooses to the interview. The interviewer must not simply review the information that appears on the application, but must explore and resolve with the household unclear and incomplete information. The interviewer must advise households of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The interviewer must advise households that are also applying for or receiving PA benefits that time limits and other requirements that apply to the receipt of PA benefits do not apply to the receipt of SNAP benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for SNAP benefits. The interviewer must conduct the interview as an official and confidential discussion of household circumstances. The State agency must protect the applicant's right to privacy during the interview. Facilities must be adequate to preserve the privacy and confidentiality of the interview.

Title 7 of the CFR § 273.2(e)(2) provides that 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.

The Appellant completed the SNAP telephone interview.

5. Title 7 of the CFR § 273.2(c)(5) provides 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.

UPM § 1010.05(A)(1) provides in part that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.

UPM 1015.05 (c) provides that 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 § 1015.10(A) provides that 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.

6. Title 7 of the Code of Federal Regulations § 273.2(h)(i)(C) provides for 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.

The Department failed to provide the Appellant with a Proofs We Need form and allow ten days to provide a copy of her custody agreement.

7. Title 7 Section 273.2 (g)(3) CFR provides for denying the application and states households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than 30 days following the date the application was filed. If the household has failed to appear for a scheduled interview and has made no subsequent contact with the State agency to express interest in pursuing the application, the State agency shall send the household a notice of denial on the 30th day following the date of application.
8. UPM § 1505.35 (C) (1) (a) provides for standards of promptness for processing applications and states that the maximum time period for processing SNAP applications is thirty calendar days for eligible SNAP applicants that do not qualify for expedited service.

Title 7 CFR § 273.10(c)(2)(i) provides that 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. Nonrecurring lump

sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

UPM § 5025.05(A)(1) provides for converting income to monthly amounts and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.

Or

UPM § 5025.05(B)(2) provides that if income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows: if income is the same each week, the regular weekly income is the representative weekly amount; if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount.

The Department correctly determined the Appellant's household gross monthly income was \$2572.21 (\$600.00 + 600.00 + \$596.25 + \$596.50 = \$2392.75 / 4 weeks = \$598.19 x 4.3 = \$2572.21)

9. Title 7 CFR S 273.9 (a) provides for income eligibility standards and states that 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 SNAP. 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 SNAP.
10. The Department correctly determined that the Appellant's household must pass the gross income and net (applied) income tests because there are no elderly or disabled household members.
11. Under expanded eligibility, the SNAP gross income limit equals 185 percent of the federal poverty level, (FPL).
12. The FPL for a household of one is \$1012.00 monthly. (USDA SNAP 2020 Income Eligibility Standards).
13. The FPL for a household of three is \$1372.00 monthly. (USDA SNAP 2010 Income Eligibility Standards).
14. The gross income limit for an assistance unit of one person as of [REDACTED] 2020 is \$1926.00 (185% FPL)
15. The gross income limit for an assistance unit of two persons as of [REDACTED] 2020 is \$2607.00 (185% FPL)

The Department incorrectly denied the Appellant's [REDACTED], 2020 SNAP application on [REDACTED], 2020, because her income was more than the limit for the program for a household of one.

The Department failed to send the Appellant a Proofs we Need form following her interview and allow her 10 tens to provide verification of the custody

agreement.

The Department failed to allow the Appellant to prove her household size when it incorrectly denied the SNAP application for a household one.

DECISION

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

ORDER

1. The Department will reopen the Appellant's [REDACTED], 2020 SNAP application.
2. The Department will send the Appellant a Proofs We Need form, allowing her 10 days to provide a copy of the custody agreement.
3. Providing all other eligibility factors are met, the Department will process the [REDACTED], 2020 SNAP application and issue a Notice of Action explaining the results of the eligibility determination.
4. Compliance with this order is due by [REDACTED] 2020 and will consist of the W-1348 Proofs We Need form requesting a copy of the custody agreement.

Scott Zuckerman
Hearing Officer

Pc: Cheryl Stuart, Operations Manager, DSS, Norwich Regional Office
Kristin Haggan, Fair Hearing Liaison, Hartford Regional Office

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.