

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3725

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

Case ID # ██████████
Client ID # ██████████
Request ID # 165193

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") reducing the amount her Supplemental Nutrition Assistance Program ("SNAP") benefits from \$374.00 to \$204.00 because her son, ██████████ did not meet the eligible student program requirements as a student of higher education.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department's decision to reduce 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. The following individuals were present at the hearing:

██████████, Appellant
Jennifer Miller, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Department correctly discontinued the Appellant's son from the SNAP household effective [REDACTED] 2020, for not meeting the eligible student program requirements.

The second issue to be decided is whether the Department correctly reduced the Appellant's SNAP benefits from \$374.00 to \$204.00 effective [REDACTED] 2020.

FINDING OF FACTS

1. The Appellant received SNAP benefits for a household of two with a certification period from [REDACTED], 2019 through [REDACTED], 2020. (Hearing Summary and Exhibit 2: Notice of Action, [REDACTED] 2020)
2. The Appellant's SNAP household consists of herself and her son [REDACTED], age 22. (Hearing Record)
3. The Appellant is 48 years old and is disabled. (Appellant's testimony)
4. On [REDACTED] 2020, the Appellant submitted an Online Change Reporting form ("ONCH"). The Appellant reported [REDACTED] is a full-time student at Naugatuck Valley Community College. (Appellant's testimony and Exhibit 3: ONCH [REDACTED]/2020)
5. The Appellant's son is not employed and does not participate in a federally financed work study. (Appellant's testimony and Exhibit 3)
6. The Department determined that as a student in higher education, the Appellant's son needed to be working 20 hours per week in order to qualify for SNAP benefits, and that he did not meet any of the other exemption criteria for being a student in higher education. (Hearing Summary and Department's testimony)
7. The Appellant receives monthly Supplemental Security Income ("SSI") of \$703.00. (Appellant's testimony)
8. The Appellant receives a monthly child support arrearage of \$86.67 monthly. (Appellant's testimony and Exhibit 2: Notice of Action, [REDACTED]/2020)
9. The Appellant is responsible for rent of \$850.00 monthly. (Appellant's testimony, Exhibit 2)
10. The Appellant is responsible for hearing expenses and is eligible for the Standard Utility Allowance ("SUA"). (Hearing Record)

11. On [REDACTED] 2020, the Department sent the Appellant a Notice of Action. The notice stated the Appellant's son was discontinued from SNAP effective [REDACTED] 2020 for the reason, Eligible student program requirements not met. The notice further stated, "We got information that caused us to review your SNAP benefits. After our review, we have determined that your SNAP benefits are changing from \$374.00 to \$204.00 effective [REDACTED] 2020. (Exhibit 2: Notice of Action, [REDACTED]/2020)
12. There is no evidence that the Appellant's son meets any of the student eligibility requirements for participating in the SNAP program. (Appellant's Testimony, Hearing Summary)
13. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 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] 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 Food Stamp 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") § 273.5 (a) provides that an individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in the Food Stamp Program unless the individual qualifies for one of the exemptions contained in paragraph b of this section. An individual is considered to be enrolled in an institution of higher education if the individual is considered to be in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

Uniform Policy Manual ("UPM") § 3020 provides that there is a technical eligibility requirement relating to student status only in the Food Stamp program. Other student requirements for AFDC (cross-reference 2500) are categorical requirements. Some individuals are not eligible to participate in the Food Stamp program because they are students. This chapter gives the conditions which a

student must meet in order to qualify for Food Stamps. For the treatment of income and assets of an ineligible student refer to Treatment of Income 5000 and Treatment of Assets 4000.

UPM § 3020.05 provides that some students must meet specific qualifications in addition to all other eligibility requirements in order to be eligible for Food Stamps.

4. Title 7 of the CFR § 273.5 (b) provides that to be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria.
 1. Be age 17 or younger or age 50 or older;
 2. Be physically or mentally unfit;
 3. Be receiving Temporary Assistance for Needy families under Title IV of the Social Security Act;
 4. Be enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor Program;
 5. Be employed for a minimum of 20 hours per week and be paid for such employment or if so employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;
 6. Be participating in a State or federally financed work study program during the regular school year;
 7. Be participating in an on-the job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer;
 8. Be responsible for the care of a dependent household member under the age of 6;
 9. Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when the State agency has determined that adequate child care is not available to enable the student to attend class and comply with the work requirements of paragraph (b)(5) or (b)(6) of this section;
 10. Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.
 - i. This provision applied in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same food stamp household as the child.
 11. Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in paragraphs (b)(11)(i) through (b)(11)(iv) of this section. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance

with the requirements of the employment and training program in which the person is enrolled provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption. The programs are:

- i. A program under the Job Training Partnership Act of 1974 (29 U.S.C. 2502, et seq.);
- ii. An employment and training program under § 273.7;
- iii. A program under section 236 of the Trade Act of 1974 (19 U.S. C. 2296);
or
- iv. An employment and training program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to acceptable food stamp employment and training program component as specified in § 273.7(e)(1). Using the criteria in § 273.7(e)(1), State agencies shall make the determinations as to whether or not the programs qualify.

UPM 3020.05 (B) (6) (b) & (c) provides students that are employed a minimum of 20 hours per week earning wages or self-employed a minimum of 20 hours per week with weekly earnings are eligible for SNAP benefits.

5. Title 7 of the CFR § 273.9 (b) (2) (i) provides for unearned income and states in part that for assistance payments from Federal or federally aided public assistance, such as supplemental security income (SSI) or Temporary Assistance to Needy Families (TANF); general assistance (GA) programs (as defined in §271.2): or other assistance programs based on need.

The Department correctly determined the Appellant's monthly gross unearned income is \$789.67 (\$703.00 SSI + \$86.67 child support)

6. Title 7 CFR § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.

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:

- D. The monthly net earned income amount is calculated by reducing monthly earnings by:
 - D. 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

- D. 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:
 - D. a deduction for farming losses, if any;
 - 2. a disregard of \$ 164.00 per month; {effective October 2018}
 - D. a deduction for unearned income to be used to fulfill a bona-fide plan to achieve self-support (PASS); Cross reference: 5035.15
 - D. the appropriate deduction for work related dependent care expenses;
 - D. 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.

The Department correctly applied the \$167.00 standard deduction to the total income of \$789.67 to determine the amount of the Appellant’s household adjusted gross income of \$622.67.

- 7. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction.

UPM § 5035.15(F)(1) provides for the calculation of the shelter hardship for the SNAP and states in part that the amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:

- a. rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings;

8. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.

UPM § 5035.15(F)(6) provides that a standard utility allowance determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:

- a. the assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
- b. the bill is established on the basis of individualized metering of service to the unit; or
- c. the costs are paid:
 - (1) totally or partially by the unit; or
 - (2) partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit's total monthly heating or cooling costs; or
 - (3) totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.

9. Title 7 C.F.R. § 273.9(d)(6)(iii)(B) requires states to review the cost of heating and cooling homes and to update the standard utility allowance based on such costs.

The Standard Utility allowance (“SUA”) for ██████████ 2020 is \$736.00

10. Title 7 CFR § 271.2 provides for the maximum shelter deduction.

UPM § 5035.15 (F)(10) provides that for those units, which do not have any members who are elderly or disabled, a maximum shelter hardship deduction, which is established by the USDA, is allowed. The maximum shelter hardship is revised annually effective October 1. (Maximum effective October 2020 is \$586.00)

The Department correctly determined the Appellant’s shelter costs were \$1586.00 (\$850.00 rent + \$736.00 SUA).

The Department correctly determined the Appellant’s shelter hardship is \$1274.67 (\$1586.00 shelter costs - \$311.34 ½ adjusted gross income). The Appellant is not subject to the maximum shelter hardship because she is disabled.

The Department correctly determined the Appellant’s applied income was \$0.00. (\$311.34 ½ adjusted gross income - \$1274.67 shelter hardship).

11. Title 7 CFR § 273.10(e) (2) (ii) (A) (1) provides for the monthly SNAP benefit calculation.

UPM § 6005(C) provides that in the SNAP, the amount of benefits is calculated by: (1) multiplying the assistance unit's applied income by 30%; and (2) rounding the product up to the next whole dollar if it ends in 1-99 cents; and (3) subtracting the rounded product from the Food Stamp standard of assistance for the appropriate unit size.

The Department correctly determined that 30% of the Appellant's net adjusted income of \$0.00, rounded up, was \$0.00.

12. Effective [REDACTED] 2020, the Appellant's SNAP benefits are computed as follows:

<u>SNAP BENEFIT CALCULATION</u>	
<u>INCOME</u>	
SSI	\$703.00
Child Support	\$86.67
Less standard deduction	<u>-\$160.00</u>
Adjusted gross income	\$622.67
<u>SHELTER COSTS</u>	
Rent	\$850.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1586.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1586.00
Less 50% of adjusted gross income	<u>-\$311.34</u>
Total shelter hardship	\$1274.67 <small>(Cannot exceed \$586 unless elderly or disabled)</small>
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$622.67
Less shelter hardship	<u>-\$1274.67</u>
Net Adjusted Income (NAI)	\$0.00
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for one person	\$204.00
Less 30% of NAI	<u>-\$0.00</u>
SNAP award	\$204.00

The Department correctly determined the Appellant's son is a student at an Institution of higher education attending half time or more.

The Department correctly determined that the Appellant's son was not employed a minimum of 20 hours per week.

The Department correctly determined that the Appellant's son did not meet at least one criteria for eligibility as a student for the SNAP program.

The Department correctly determined that the Appellant's son is not eligible for SNAP benefits due to his student and employment status.

The Department correctly determined the Appellant's son no longer eligible for SNAP benefits.

The Department correctly determined the Appellant's household a household of one when the Appellant's son was determined ineligible for SNAP benefits due to his student and employment status.

The Department correctly reduced the Appellant's SNAP benefit amount to \$204.00, the maximum SNAP benefit for a household of one, effective [REDACTED] 2020.

DECISION

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

Scott Zuckerman
Hearing Officer

cc: James Hilliard, Operations Manager, DSS, Waterbury Regional Office
Jennifer Miller, Fair Hearing Liaison, DSS, Waterbury 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 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.