

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVE.
HARTFORD, CT 06105-3725

██████████ 2021
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 163795

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") reduced ██████████ the Appellant's) benefits under the Supplemental Nutrition Assistance Program ("SNAP") from \$247.00 per month to \$204.00 per month beginning ██████████ 2020.

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, the Appellant requested a continuance which the OLCRAH granted.

On ██████████ 2020, the 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 called in for the hearing:

██████████, Appellant
Kate MacKenzie, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant receives benefits under the SNAP for a household of two: herself and her son. (Hearing Record)
2. The Appellant is age [REDACTED] and not disabled. (Appellant's Testimony and Exhibit 1: Online Application)
3. The son is [REDACTED] and not disabled. (Appellant's Testimony and Exhibit 1: Online Application)
4. The Appellant receives unemployment compensation benefits ("UCB") of \$432.00 per week. (Appellant's Testimony, Department Representative's Testimony and Exhibit 5: Department of Labor UCB)
5. The Appellant attends [REDACTED] ("college") part time. The Appellant does not receive financial aid for college. (Appellant's Testimony)
6. The Appellant sends her son to a licensed home daycare program one day per week so that she may complete her college assignments. The Appellant pays \$50.00 per week for childcare. (Appellant's Testimony)
7. The Appellant pays \$50.00 per month for prescription reflux medication for her son which is not covered by medical insurance. (Appellant's Testimony)
8. The Appellant pays \$675.00 per month for rent and pays for the electricity and heating costs in the apartment. The Appellant's apartment uses oil heat. The Appellant did not receive energy assistance for the prior heating season. (Appellant's Testimony)
9. In [REDACTED] 2020, the Department reduced the Appellant's SNAP benefits from \$247.00 per month to \$204.00 per month. The Department calculated ongoing SNAP benefits as \$107.00. (Hearing Record)
10. The issuance of this decision is timely under United States Department of Agriculture Food and Nutrition Services Connecticut waiver approved on April 9, 2020 which extends the time frame required to issue a decision under Title 7 Section 273.15(c) of the Code of Federal Regulation from 60 days to 120 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2020. However, the hearing which was

originally scheduled for [REDACTED], 2020 was rescheduled at the request of the Appellant which caused a [REDACTED] day delay. Because this [REDACTED] delay resulted from the Appellant's request, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes ("Conn. Gen. Stats.") provides that the Department of Social Services is designated 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 of the Code of Federal Regulations ("C.F.R.") Section 273.1(a)(3) provides for the "*General household definition*. 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."

Federal regulation provides as follows:

Special household requirements—(1) Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified. A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).

7 C.F.R. § 273.1(b)(1)(ii)

3. The Department correctly determined as assistance unit of two, the Appellant and her son.
4. "*Definition of income.* Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section." 7 C.F.R. § 273.9(b)

Federal regulation provides as follows:

Unearned income shall include, but not be limited to: Annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in §272.12; old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing

business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

7 C.F.R. § 273.9(b)(2)(ii)

5. The Department correctly included the Appellant's UCB income when calculating the SNAP benefits for the household.
6. Federal regulation provides as follows:

Determining income—(1) Anticipating income. (i) For the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by §273.12.

7 C.F.R. § 273.10(c)(1)(i),

Federal regulation provides as follows:

Income only in month received. (i) 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.

7 C.F.R. § 273.10(c)(2)(i)

7. Based on the hearing record, the Department's calculation of the Appellant's monthly gross income cannot be determined. However, based on SNAP regulations, the Appellant's gross monthly UCB benefit equals \$1,857.60 under the SNAP. ($\$432.00$ per week \times 4.3 weeks = $\$1,857.60$)
8. "*Determining deductions.* Deductible expenses include only certain dependent care, shelter, medical and, at State agency option, child support costs as described in § 273.9. 7 C.F.R. § 273.10(d)

Federal regulation provides as follows:

Expenses shall only be deductible if the service is provided by someone outside of the household and the household makes a money payment for the service. For example, a dependent care deduction shall not be allowed if another household member provides the care, or compensation for the care is provided in the form of an inkind benefit, such as food.

7 C.F.R. § 273.10(d)(1)(ii)

"*Conversion of deductions.* The income conversion procedures in paragraph (c)(2) of this section shall also apply to expenses billed on a weekly or biweekly basis." 7 C.F.R. § 273.10(d)(5)

9. Federal regulation provides as follows:

Income deductions. Deductions shall be allowed only for the following household expenses:

Standard deduction—(i) 48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands. Effective October 1, 2002, in the 48 States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands, the standard deduction for household sizes one through six shall be equal to 8.31 percent of the monthly net income eligibility standard for each household size established under paragraph (a)(2) of this section rounded up to the nearest whole dollar. For household sizes greater than six, the standard deduction shall be equal to the standard deduction for a six-person household.

7 C.F.R. § 273.9(d)(1)(i)

Excess medical deduction. That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in §271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. ...

7 C.F.R. § 273.9(d)(3)

Federal regulation provides as follows:

Elderly or disabled member means a member of a household who:

1. Is 60 years of age or older;
2. Receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;
3. Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;
4. Receives federally or State-administered supplemental benefits under section 212(a) of Pub. L. 93-66;
5. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.
6. Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code;
7. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code;
8. Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;
9. Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under title 38 of the United States Code *and* has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or
10. Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 *and* is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act.
11. Is a recipient of interim assistance benefits pending the receipt of Supplemented Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits *provided* that the eligibility to receive any of these benefits is based upon disability or blindness criteria

established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).

7 C.F.R. § 271.2

Dependent care. Payments for dependent care when necessary for a household member to search for, accept or continue employment, comply with the employment and training requirements as specified under §273.7(e), or attend training or pursue education that is preparatory to employment, except as provided in §273.10(d)(1)(i). Costs that may be deducted are limited to the care of an individual for whom the household provides dependent care, including care of a child under the age of 18 or an incapacitated person of any age in need of care. The costs of care provided by a relative may be deducted so long as the relative providing care is not part of the same SNAP household as the child or dependent adult receiving care. Dependent care expenses must be separately identified, necessary to participate in the care arrangement, and not already paid by another source on behalf of the household. If a household incurs attendant care costs that could qualify under both the medical deduction of §273.9(d)(3)(x) and dependent care deduction of §273.9(d)(4), the costs may be deducted as a medical expense or a dependent care expense, but not both. Allowable dependent care costs include:

- i. The costs of care given by an individual care provider or care facility;
- ii. Transportation costs to and from the care facility; and
- iii. Activity or other fees associated with the care provided to the dependent that are necessary for the household to participate in the care.

7 C.F.R. § 273.9(d)(4)

Excess shelter deduction. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) through (d)(5) of this section have been allowed. If the household does not contain an elderly or disabled member, as defined in §271.2 of this chapter, the shelter deduction cannot exceed the maximum shelter deduction limit established for the area. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12 month period ending the previous November 30. FNS will notify State agencies of the amount of the limit. Only the following expenses are allowable shelter expenses:

- A. Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.
- B. Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.
- C. The cost of fuel for heating; cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes; and fees charged by the utility provider for initial installation of the utility. One-time deposits cannot be included.
- D. The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes; and the home must not be leased or rented during the absence of the household.
- E. Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

7 C.F.R. § 273.9(d)(6)(ii)

Standard utility allowances: A standard with a heating or cooling component must be made available to households that incur heating or cooling expenses separately from their rent or mortgage and to households that receive direct or indirect assistance under the Low Income Home Energy Assistance Act of 1981 (LIHEAA). A heating or cooling standard is available to households in private rental housing who are billed by their landlords on the basis of individual usage or who are charged a flat rate separately from their rent. However, households in public housing units which have central utility meters and which charge households only for excess heating or cooling costs are not entitled to a standard that includes heating or cooling costs based only on the charge for excess usage unless the State agency mandates the use of standard utility allowances in accordance with paragraph (d)(6)(iii)(E) of this section. Households that receive direct or indirect energy assistance that is excluded from income consideration (other than that provided under the LIHEAA) are entitled to a standard that includes heating or cooling only if the amount of the expense exceeds the amount of the assistance. Households that receive direct or indirect energy

assistance that is counted as income and incur a heating or cooling expense are entitled to use a standard that includes heating or cooling costs. A household that has both an occupied home and an unoccupied home is only entitled to one standards.

7 C.F.R. § 273.9(d)(6)(iii)(C)

10. The Department correctly determined the Appellant entitled to the standard deduction equaling \$167.00 per month. Refer to Conclusions of Law ("COL") #17.
11. The Department correctly determined the Appellant not entitled to the excess medical deduction for the purchase of reflux medication for her son because no one in the household meets the criteria as elderly or disabled. Only those households that contain an elderly or disabled member may qualify for an excess medical deduction.
12. Based on the hearing record, whether or not the Department allowed a dependent care deduction is not known. However, as the Appellant is enrolled in higher education and pays for child care, the Appellant meets the eligibility criteria for the dependent care deduction. The dependent care deduction equals \$215.00 per month. ($\$50.00 \text{ per week} \times 4.3 \text{ weeks} = \215.00) Refer to COL #17.
13. Based on the hearing record, the amount of the excess shelter deduction applied to the SNAP calculation cannot be determined. However, the Appellant is entitled to an excess shelter deduction of \$586.00 based on her rent expense of \$675.00 per month and the standard utility allowance of \$736.00. Refer to COL #17.
14. Federal regulation provides as follows:

Calculating net income and benefit levels-(1) Net monthly income. To determine a household's net monthly income, the State agency shall:

- A. Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with §273.11(a)(2)(iii).
- B. Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with §273.9(c)(17), multiply the excluded earnings used to pay

- child support by 20 percent and subtract that amount from the total gross monthly income.
- C. Subtract the standard deduction.
 - D. If the household is entitled to an excess medical deduction as provided in §273.9(d)(3), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.
 - E. Subtract allowable monthly dependent care expenses if, any, as specified under § 273.9(d)(4) for each dependent.
 - F. If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with § 273.9(d)(5), subtract allowable monthly child support payments in accordance with § 273.9(d)(5).
 - G. Subtract the homeless shelter deduction, if any, up to the maximum of \$143.
 - H. Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.
 - I. Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

7 C.F.R. § 273.10(e)(1)(i)

15. "In calculating net monthly income, the State agency shall use one of the following two procedures: Round down each income and allotment calculation that ends in 1 through 49 cents and round up each calculation that ends in 50 through 99 cents." 7 C.F.R. § 273.10(e)(1)(ii)
16. Federal regulation provides as follows:

Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways: The State agency shall round the 30 percent of net income up to the nearest higher dollar.

7 C.F.R. § 273.10(e)(2)(ii)(A)(1)

Federal regulation provides as follows:

Thrifty Food Plan (TFP) and Maximum SNAP Allotments. Maximum SNAP allotment level. Maximum SNAP allotments shall be based on the TFP as defined in §271.2, and they shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The TFP for Hawaii shall be the TFP for the 48 States and DC adjusted for the price of food in Honolulu. The TFPs for urban, rural I, and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I, and rural II Alaska as defined in §272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the cost of these TFPs may not exceed the cost of the highest TFP for the 50 States. The TFP amounts and maximum allotments in each area are adjusted annually and will be prescribed in a table posted on the FNS web site, at www.fns.usda.gov/fsp.

7 C.F.R. § 273.10(e)(4)(i)

17. The Department incorrectly determined the Appellant's monthly SNAP benefit as \$204.00 per month beginning [REDACTED] 2020. The correct benefit is \$107.00 per month.

<u>INCOME</u>	
Earned Income	\$00.00
Less 20%	-\$00.00
Total	
Plus Unearned Income	+\$1,857.60
Total	\$1,857.60
Less standard deduction	-\$167.00
Less child care costs	-\$215.00
Adjusted gross income	\$1,475.60
<u>SHELTER COSTS</u>	
Rent	\$675.00
SUA	+\$736.00
Total shelter costs	\$1,411.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,411.00
Less 50% of adjusted gross income	-\$737.80
Total shelter hardship	\$673.20 (Can not exceed \$586 unless elderly or disabled)
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1,475.60
Less shelter hardship	-\$586.00

Net Adjusted Income (NAI)	\$889.60
BENEFIT CALCULATION	
Thrifty Food Plan for # Person/s	\$374.00
Less 30% of NAI	<u>-\$267.00</u>
SNAP award	\$107.00

DECISION

The Appellant's appeal is DENIED.



Lisa A. Nyren
Fair Hearing Officer

CC: Cheryl Stuart, DSS RO #40
Kate MacKenzie, DSS RO #40

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.

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, 165 Capitol Avenue, 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.