

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

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

Case ID # ██████████  
Client ID # ██████████  
Request # 168286

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

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

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department’s denial of her SNAP application.

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 that OLCRAH reschedule her hearing scheduled for ██████████ 2020.

On ██████████ 2021, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2021.

On [REDACTED], 2021, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone.

The following individuals participated in the hearing:

[REDACTED] Appellant  
Javier Rivera, Department's Representative  
Sara Hart, Hearing Officer

### **STATEMENT OF THE ISSUE**

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

### **FINDINGS OF FACT**

1. On [REDACTED] 2020, the Appellant submitted an online application for SNAP benefits. (*Exhibit 5; Online Application*)
2. On [REDACTED] 2020, the Department conducted a SNAP telephone interview with the Appellant. (*Exhibit 1; Case Notes*)
3. The Appellant's household consists of three members: the Appellant, age [REDACTED] and her two children, age [REDACTED] and [REDACTED]. (*Exhibit 5, Appellant's Testimony*)
4. There are no household members over the age of 60. (*Exhibit 5, Appellant's Testimony*)
5. There are no disabled household members. (*Exhibit 5, Appellant's Testimony*)
6. The Appellant's [REDACTED]-year-old daughter is a student of higher education and attends [REDACTED] full time. (*Exhibit 5, Appellant's Testimony*)
7. The Appellant's [REDACTED]-year-old daughter is able to work. She is not employed and does not participate in state or federally funded work study. She does not receive Temporary Assistance for Needy Families. (*Exhibit 5, Appellant's Testimony*)
8. The Appellant receives child support in the amount of \$190 per week. She received \$760 in [REDACTED] 2020, \$760 in [REDACTED] 2020, and \$950 in [REDACTED] 2020. The Department calculated her monthly child support as  $(\$2470.00/3 = \$823.33)$ . (*Exhibit 1, Appellant's Testimony, Department's Testimony*)

9. ██████████ employs the Appellant and she is paid weekly. She received weekly gross wages of \$650.00 on ████████/2020, ████████/2020, ████████ 2020, and ████████ 20. The Department calculated her monthly gross earnings as ( $\$650.00 * 4.3 = \$2795.00$ ). (*Exhibit 6; Wage Stubs, Department's Testimony*)
10. The Department calculated the Appellant's total household income as \$3618.33 ( $\$823.33 + \$2795.00 = \$3618.33$ ). (*Exhibit 3; Federal SNAP Income Test Page*)
11. The Appellant pays \$1140 per month for rent and is responsible for separate heating costs. (*Exhibit 5, Appellant's Testimony*)
12. On ██████████ 2020, the Department issued the Appellant a NOA denying her application for SNAP benefits because the household's gross income exceeded the limit. (*Exhibit 4; NOA dated ██████████ 2020*)
13. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations ("C.F.R") § 273.15 (c) (1) which provides that within 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 is notified of the decision. The Appellant requested an administrative hearing on ██████████, 2020. On ██████████ ████████ 2020, the Appellant requested to reschedule her administrative hearing; therefore, this decision is due no later than ██████████ 2021. (*Hearing Record*)

### **CONCLUSIONS OF LAW**

1. Section 17b-2(7) of the Connecticut General Statutes 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. "The Department's Uniform Policy Manual ("UPM") is the equivalent of 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 C.F.R. § 273.9 (a) provides 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 the Food Stamp Program. 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 the Food Stamp Program. Households that are categorically eligible as defined in §273.2 (j) (2) or 273.2 (j) (4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall

be based on the levels established in Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

**The Department correctly determined the Appellant's household is not categorically eligible for SNAP benefits; therefore, the household must meet both the net and gross income eligibility standard.**

4. 7 C.F.R. § 273.1(B)(1)(ii) provides for required household composition. 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.
  - ii. A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).

**The Department correctly determined the Appellant's SNAP household included three members: the Appellant, her minor child, and her ■■■■■ year-old daughter.**

5. 7 C.F.R. § 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 SNAP 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 enrolled 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.

7 C.F.R. § 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 self-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. The State agency may choose to determine compliance with this requirement by calculating whether the student worked an average of 20 hours per week over the period of a month, quarter, trimester or semester. State agencies may choose to exclude hours accrued during academic breaks that do not exceed one month. A State agency that chooses to average student work hours must specify this choice and specify the time period over which the work hours will be averaged in its State plan of operation; (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.

UPM § 3020 provides in part that there is a technical eligibility requirement relating to student status only in the Food Stamp (SNAP) program.

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.

**The Department correctly determined that the Appellant's ■-year-old daughter is a student at an institution of higher education attending half time or more and is not employed a minimum of 20 hours per week.**

**The Department correctly determined that the Appellant's ■-year-old daughter does not meet any of the exemptions in 7 C.F.R. 273.5 (b); therefore, she is an ineligible member of the Appellant's household for the SNAP due to her student status.**

6. 7 C.F.R. § 273.9 (b) states that "Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section."

UPM § 5005(A) states that: "In consideration of income, the Department counts the assistance unit's available income, except to the extent that it is specifically excluded."

7 C.F.R. § 273.9 (b)(1)(i) states that "Earned income shall include: (i) All wages and salaries of an employee."

UPM § 5000.01 states that "Earned income is income which the assistance unit receives in exchange for the performance of duties or through self-employment and may be in the form of wages, salary, benefits, or proceeds from self-employment."

**The Department correctly included the Appellant's wages in the determination of eligibility for SNAP benefits.**

7. 7 C.F.R. § 273.9 (b)(2)(iii) provides in part that unearned income shall include, but not limited to: support or alimony payments made directly to the household from non-household members.

UPM § 5050.19 (B)(3) provides that child support payments are counted as unearned income in determining eligibility and calculating benefits.

**The Department correctly included the Appellant's child support income in the calculation of SNAP benefits.**

8. 7 C.F.R. § 273.10 (c)(2)(i) provides for converting income into monthly amounts. 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 (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: b. 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 monthly wages were \$2795.00 ( $\$650.00 * 4.3 = \$2795.00$ ).**

**The Department incorrectly determined the Appellant's monthly child support was \$823.33 ( $\$247.00/3 = \$823.33$ ). The correct monthly average child support income is \$817.00 ( $\$2470.00/13 \text{ weeks} = \$190.00 \text{ weekly} * 4.3 \text{ weeks} = \$817.00$ )**

**The Appellant's correct total household income is \$3612.00 ( $\$2795.00 + \$817.00$ ).**

9. 7 CFR § 273.9 (a)(1) discusses the gross income eligibility standards for the Food Stamp Program and provides that: (i) "The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia."

UPM § 5520.40 provides that income eligibility for the SNAP program is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance or SSI.

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
  - a. include one or more persons who are elderly or disabled; or
  - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp

Applied Income Limit (FSAIL) for the number of persons in the needs group:

- a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.
- b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.

7 C.F.R. § 273.9(a)(3) states that "The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii."

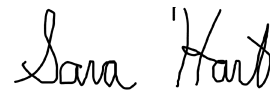
The 2020 Poverty Guidelines for the 48 Contiguous States and the District of Columbia for a household of two is \$17,240.00 annually [**Federal Register**/Vol. 85, No. 12 / Friday January 17, 2020, page 3060]

UPM §P-5520.36 provides for the gross income limits for SNAP expanded categorical eligibility as 185% of the Federal Poverty Level.

**The Appellant's total gross income of \$3612.00 for a household of two persons (excluding her ineligible [REDACTED] old daughter) exceeds the SNAP income limit of \$2658.00 (\$17,240\*185%=\$31,894/12 months = \$2658 per month (rounded up)) for a household of two eligible members.**

**DECISION**

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



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Sara Hart  
Hearing Officer

Cc: Tricia Morelli, Middletown Regional Office  
Javier Rivera, Manchester 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 the 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 the 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 if 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 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.