

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

Client ID ██████████  
Request #168388

**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 his application for benefits from the Supplemental Nutrition Assistance Program (“SNAP”) because his monthly gross income was more than the limit for the program

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department’s denial of his application for SNAP benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2020. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

On ██████████ 2020, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The Appellant did not object to a telephonic hearing. The following individuals were present at the hearing:

██████████ Appellant  
Althea Forbes-Francis, Department’s Hearing Liaison  
James Hinckley, Hearing Officer

## **STATEMENT OF THE ISSUE**

1. Whether the Department was correct when it denied the Appellant's SNAP application because his income exceeded the limit for the program.

## **FINDINGS OF FACT**

1. On [REDACTED] 2020, the Appellant submitted an online application for SNAP. The Appellant applied for himself, his wife and their two minor children. (Ex. 1: Online application form)
2. None of the members of the Appellant's SNAP household were elderly or disabled. (Appellant's testimony)
3. At the time of his application, the Appellant was receiving \$147.00 per week in unemployment compensation benefits. His wife was receiving \$649.00 per week in UCB. (Hearing Record)
4. At the time of his application, the Appellant and his family lived in home-owned property. He paid a mortgage of \$3,454.94 for the home property. (Hearing Record)
5. At the time of his application, the Appellant owned a second home which was the family's former residence. The Appellant rented out the former home and had been doing so for approximately nine months. (Appellant's testimony)
6. Because the Appellant had only been renting out his former home for nine months, he had not yet filed a tax return that reflected the rental income. (Appellant's testimony)
7. The Appellant rented the second property for \$1,550.00 per month. He reported to the Department that the expenses associated with the rental property were \$1,116.23 per month. (Ex. 2, Hearing Record)
8. The Appellant spent approximately one hour per month managing and maintaining the rental property. (Appellant's testimony)
9. The Department did not act timely on the Appellant's application, within the normal 30-day processing time for SNAP applications. (Hearing Liaison's testimony)
10. On [REDACTED] 2020, the Department processed the Appellant's SNAP application. (Hearing Record)
11. As of [REDACTED] 2020, the Appellant's circumstances were the same as on the date he applied. He still received \$147.00 per week from UCB and his wife

received \$649.00 per week. He still lived in the same home with the same expenses and received the same rental income and had the same rental expenses. (Appellant's testimony)

12. On [REDACTED] 2020, the Department conducted a SNAP telephone interview with Appellant, during which he confirmed his circumstances. (Hearing Record)
13. The Appellant received five \$147.00 UCB payments in [REDACTED] 2020, four \$147.00 UCB payments in [REDACTED] 2020 and four \$147.00 UCB payments in [REDACTED] 2020. (Ex. 5: ImpaCT – Unemployment Compensation Benefit Details)
14. The Appellant's wife received five \$649.00 UCB payments in [REDACTED] 2020, four \$649.00 UCB payments in [REDACTED] 2020 and four \$649.00 UCB payments in [REDACTED] 2020. (Ex. 6: ImpaCT – Unemployment Compensation Benefit Details)
15. On [REDACTED] 2020, the Department issued an NOA to the Appellant denying his application for SNAP benefits for the reason, "The monthly gross income of your household is more than the limit for this program." (Ex. 4: NOA)
16. The [REDACTED] 2020 NOA reflected that the Appellant's household's income included UCB of \$147.00 weekly, UCB of \$649.00 weekly and "Other" income of \$1,550.00 monthly. (Ex. 4)
17. On [REDACTED] 2020, after his application had been denied, the Appellant submitted proof to the Department that his mortgage for the rental property was \$1,116.23. (Ex. 7: Mortgage statement)
18. The Department never requested that the Appellant provide proof of expenses for his rental property and made its eligibility decision without the information. (Hearing Record)

### **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 in accordance with federal law.
2. Title 7 of the Code of Federal Regulations ("CFR") Sec. 273.9(a) provides, in relevant part, as follows:
  - i. 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 which 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 Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

3. **The Appellant's household did not contain an elderly or disabled member. The household was, therefore, subject to both the net income and gross income eligibility standards for SNAP, unless it met categorical eligibility requirements.**
4. "Unearned income shall include, but not be limited to... unemployment compensation..." 7 CFR § 273.9(b)(2)(ii)
5. **The Appellant's household received a combined \$796.00 (\$147.00 + \$649.00) in income per week from UCB benefits, which counted as unearned income.**
6. "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...." 7 CFR § 273.10(c)(1)(i)
7. "Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period...." 7 CFR § 273.10(c)(1)(ii)
8. "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...." 7 CFR § 273.10(c)(2)
9. **The Appellant's and the Appellant's spouse's UCB benefits, which were issued weekly, had to be converted to a monthly amount. The couple's combined weekly UCB of \$796.00 (\$147.00 + \$649.00), multiplied by 4.3, equaled \$3,422.80. This was the household's monthly income from UCB**
10. "Unearned income shall include, but not be limited to... 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 CFR § 273.9(b)(2)(ii)

11. **The Appellant's rental property income was countable income, and was considered unearned income because he did not manage the rental property at least 20 hours a week.**
12. "Allowable costs of producing self-employment income include, but are not limited to...payments on the principal of the purchase price of income-producing real estate... interest paid to purchase income-producing property; insurance premiums; and taxes paid on income-producing property." 7 CFR § 273.11(b)(1)
13. **The Appellant's allowable costs of producing rental income included the entire \$1,116.23 mortgage payment on the rental property, including the escrowed amount.**
14. **The Appellant's unearned rental property income was \$386.77 per month (\$1,550.00 - \$1,116.23).**
15. **The Appellant's household's total monthly unearned income was \$3,809.57 per month (\$3,422.80 UCB + \$386.77 Rental).**
16. States may, at their option, extend categorical eligibility to households "in which all members receive or are authorized to receive non-cash or in-kind services" from a program that is funded in part with State money counted for MOE purposes under Title IV-A, if the program was designed to further either purposes one and two, or three and four, of the TANF block grant. FNS must be informed of, or must approve, the TANF services that a State determines to confer categorical eligibility. 7 CFR § 273.2(j)(2)(ii)
17. **Households in Connecticut with incomes below 185% of the federal poverty level ("FPL") qualify for the State's "Help for People in Need" program which is funded with money counted for TANF MOE purposes and meets the requirements in 7 CFR § 273.2(j)(2)(ii). As such, the Department extends broad-based categorical eligibility for SNAP to all households that qualify for "Help for People in Need".**
18. **The Appellant's SNAP household size was four and his household's total countable gross monthly income was \$3,809.57.**
19. The standards used in the SNAP are adjusted each year on the first day of October. The Federal Poverty Standards applicable to the Appellant's SNAP eligibility determination for August 2020 – September 2020 are published in the Federal Register, Vol. 84, No. 22 / Friday, February 1, 2019, pp. 1167-1168. The Federal Poverty Standards applicable to the Appellant's SNAP eligibility determination effective October 1, 2020 are published in the Federal Register, Vol. 85, No. 12 / Friday, January 17, 2020, pp. 3060-3061

20. 185% of the FPL for a household of four persons was \$3,970.00 monthly for [REDACTED] 2020 and \$4,040.00 monthly beginning [REDACTED] 2020. The Appellant's household's total income of \$3,809.57 was less than 185% of the FPL in all months of his application. His household was, therefore, eligible for "Help for People in Need" and, therefore, categorically eligible for SNAP under the provisions of 7 CFR § 273.2(j)(2)(ii). Because the household was categorically eligible, it was not required to meet either the gross or net income eligibility standards pursuant to 7 CFR § 273.9(a).

21. In the SNAP benefit determination, household income and deductions are calculated pursuant to 7 CFR § 273.9. Net income and SNAP benefit levels are then calculated pursuant to 7 CFR § 273.10(e). The calculations for the Appellant's household are as follows:

Only certain income deductions are allowable in the calculation of SNAP benefits. The household expenses which may be used as deductions are described in paragraphs (d)(1) to (d)(6) of 7 CFR § 273.9.

The *standard deduction* for a household size of one to six persons is equal to 8.31 percent of the monthly net income standard for each household size established under § 273.9(a)(2) rounded up to the nearest whole dollar. 7 CFR § 273.9(d)(1)

The Appellant's household of four persons qualified for the \$178.00 standard deduction that was in effect for [REDACTED] 2020, and the \$181.00 standard deduction that was in effect for [REDACTED] 2020 and later.

The Appellant did not qualify for any of the other four remaining deductions provided for in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9, the *earned income deduction*, *excess medical deduction*, *dependent care deduction*, or *child support deduction*. The figure equaling the total deductions allowable under (d)(1) to (d)(5) is applicable to the next calculation.

7 CFR § 273.9(d)(6)(ii) provides for the *excess shelter deduction*. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9 have been allowed, are allowed as an excess shelter deduction.

The Appellant's household qualified for one of the deductions in paragraphs (d)(1) to (d)(5) of 7 CFR § 273.9, the *standard deduction*. After deducting the \$178.00 (or \$181.00) *standard deduction* from the Appellant's household's \$3,809.57 total gross income, the remaining income was \$3,631.57 for [REDACTED] 2020 and \$3,628.57 beginning [REDACTED] 2020.

50% of \$3,628.57 is \$1,814.29. 50% of \$3,631.57 is \$1,815.79. These figures are used in the calculation of the *excess shelter deduction* pursuant to 7 CFR § 273.9(d)(6)(ii).

7 CFR § 273.9(d)(6) discusses shelter costs and provides that only certain expenses are allowable as shelter expenses, including rent, mortgage, property taxes, insurance on the structure, condo and association fees, and the actual costs of utilities.

7 CFR § 273.9(d)(6)(iii) provides for a *standard utility allowance* which may, at State option, be used in place of the actual cost of utilities in determining a household's

*excess shelter deduction* and which may be made available both to households that incur actual utility expenses and to those that receive assistance under the LIHEAA (Low Income Home Energy Assistance Act).

The Department has opted to use a standard utility allowance (SUA) in place of the actual cost of utilities for qualifying households. The Appellant qualified for the SUA because he was responsible to pay for utilities. The SUA in effect for all months of the Appellant's application was \$736.00. This figure is used in place of his actual costs in the calculation of the *excess shelter deduction*.

The Appellant's shelter expenses totaled \$4,190.94 monthly for each month being calculated (\$3,454.94 mortgage + \$736.00 SUA).

"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...." 7 CFR § 273.9(d)(6)(ii)

7 CFR § 271.2 defines *elderly or disabled member* as 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", or who is approved for certain other government payments for blindness or disability.

The Appellant's household did not contain an elderly or disabled member. His household's shelter deduction was, therefore, capped at the Department's maximum shelter deduction limits of \$569.00 for [REDACTED] 2020 and \$586.00 beginning [REDACTED] 2020.

The Appellant's calculated *excess shelter deduction* was \$2,375.15 for [REDACTED] 2020 (\$4,190.94 shelter expenses - \$1,815.99 [50% of income remaining after subtracting deductions allowed under 7 CFR § 273.9(d)(1) to (d)(5)]). Beginning [REDACTED] 2020, the deduction increased to \$2,376.65 (\$4,190.94 shelter expenses - \$1,814.29 [50% of 273.9(d) income]). The actual deduction used in the benefit calculation was subject to a cap in each month. For [REDACTED] 2020, it was capped at \$569.00. Beginning [REDACTED] 2020, it was capped at \$586.00.

The Appellant's *net income* after all deductions was \$3,062.57 for A [REDACTED] 2020 (\$3,809.57 total gross income, minus \$178.00 *standard deduction*, minus \$569.00 *excess shelter deduction*). The Appellant's *net income* after all deductions was \$3,042.57 beginning [REDACTED] 2020 (\$3,809.57 total gross income, minus \$181.00 *standard deduction*, minus \$586.00 *excess shelter deduction*).

"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...." 7 CFR § 273.10(e)(2)(ii)(A)

30% of the Appellant's household's net monthly income was \$918.77 for [REDACTED] 2020 (\$3,062.57 multiplied by .3). 30% of the Appellant's household's net monthly income was \$912.77 beginning [REDACTED] 2020 (\$3,042.57 multiplied by .3). The figures were rounded up to \$919.00 and \$913.00, respectively, pursuant to 273.10(e)(2)(ii)(A)(1).

The maximum food stamp allotment (known as the “thrifty food plan”) for a household of four persons was \$646.00 for [REDACTED] 2020 and \$680.00 beginning [REDACTED] 2020.

The Appellant’s household did not qualify for a SNAP benefit in any month because 30% of his household’s net income was more than the maximum benefit for a household of four persons in each month. \$919.00 exceeded \$646.00 for [REDACTED] 2020 and \$913.00 exceeded \$680.00 beginning [REDACTED] 2020.

22. The Department’s NOA incorrectly stated that the reason for the Appellant’s ineligibility was that his income exceeded the gross limit. The Appellant’s household was not subject to the gross income test because it was categorically eligible.
23. Notwithstanding the incorrect reason cited in the Department’s NOA for the denial, the action to deny the Appellant’s application was correct. He was not eligible for SNAP because 30% of his net income exceeded the amount to qualify for a benefit in any month.
24. The Department was correct when it denied the Appellant’s SNAP application because his income exceeded the limit for the program.

### **DISCUSSION**

The Appellant’s argument was that his rental income was not counted correctly by the Department because the gross rent he received was reflected as income without consideration of the expenses associated with renting the property.

The Department argued it was not necessary for it to verify the Appellant’s rental expenses because an eligibility decision was able to be made on his case without the verification.

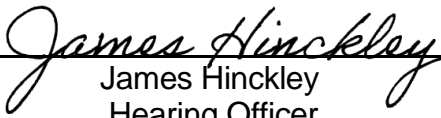
The Appellant was correct that the NOA he received from the Department contained erroneous information. It reflected as income the full \$1,550.00 rent he received, without reducing the income by the deductions to which he was entitled. This resulted in the NOA incorrectly stating that the Appellant’s income exceeded the *gross* limit. In fact, he did not exceed the gross limit, but rather the *net* limit.

Despite the error in the notice, the Department’s action was still correct. The Appellant was not eligible for SNAP; therefore, his application was correctly denied.

### **DECISION**

The Appellant’s appeal is **DENIED**.



  
James Hinckley  
Hearing Officer

cc: Patricia Ostroski  
Althea Forbes-Francis

### **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, 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.