

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 # ██████████
CLIENT# ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020 the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant"), a Notice of Action ("NOA") stating the Appellant's Supplemental Nutrition Assistance Program ("SNAP") benefit amount would be \$333 per month, effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the \$333 monthly SNAP benefit.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ ██████████ 2021.

On ██████████ 2021, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing. The following individuals participated in the hearing:

Appellant, ██████████
Appellant's Spouse, ██████████
Department's Representative, Ferris Clare
Hearing Officer, Joshua Couillard

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant's SNAP benefit to be \$333 per month.

FINDINGS OF FACT

1. The Appellant's SNAP benefits were due for recertification by [REDACTED] 2020. (Department's Testimony)
2. On [REDACTED] 2020, the Department received a W-1ER SNAP Renewal of Eligibility form from the Appellant. (Department's Testimony, Hearing Record)
3. On [REDACTED] 2020, the Department processed the Appellant's SNAP renewal for ongoing benefits. (Department's Testimony, Hearing Record)
4. The Appellant's household consists of four persons – the Appellant ([REDACTED]), the Appellant's spouse ([REDACTED]d) and two in-common children (ages [REDACTED] and [REDACTED]). (Appellant's Testimony, Hearing Record, Exhibit 3: NOA, Exhibit 4: Online Application).
5. During [REDACTED], the Appellant was receiving \$535 in SNAP benefits for a household of three – the Appellant and her two children. (Department's Testimony).
6. During [REDACTED], the Appellant's spouse was not considered part of the Assistance Unit and none of his income was being counted toward the SNAP benefit due to him not being a citizen. (Department's Testimony)
7. In [REDACTED] the Appellant's spouse became a citizen of the United States. (Appellant's Testimony, Exhibit 1: Case Notes, Exhibit 4)
8. On [REDACTED], 2020, the Department added the Appellant's spouse to the SNAP Assistance Unit. The Department also began counting the Appellant's spouse's income at that time. (Department's Testimony, Exhibit 1, Exhibit 3, Exhibit 6: SNAP Income Test Page)
9. The Appellant's spouse is [REDACTED]. (Exhibit 4, Exhibit 2: 2019 Tax Return Transcript, Exhibit 5: Impact Self-Employment Screenshot, Exhibit 6, Appellant's Testimony)

10. The [REDACTED] Tax Return Transcripts show two separate yearly self-employment income sources for the Appellant's spouse. Also listed are any expense deductions. (Exhibit 2)

Income #1	Amount
Gross Receipts or Sales	\$36,800.00
Expenses for Income #1	Amount
Car & Truck Expenses	\$17,858.00
Depreciation	\$0.00
Insurance (Other than Health)	\$0.00
Mortgage Interest	\$0.00
Legal and Professional Services	\$0.00
Repairs and Maintenance	\$0.00
Travel	\$0.00
Meals and Entertainment	\$0.00
Wages	\$0.00
Other Expenses	\$838.00
Total Expenses	\$18,837.00
Income #2	Amount
Gross Receipts or Sales	\$8,817.00
Expenses for Income #2	Amount
Car & Truck Expenses	\$0.00
Depreciation	\$0.00
Insurance (Other than Health)	\$0.00
Mortgage Interest	\$0.00
Legal and Professional Services	\$0.00
Repairs and Maintenance	\$0.00
Travel	\$0.00
Meals and Entertainment	\$0.00
Wages	\$0.00
Other Expenses	\$0.00
Total Expenses	\$0.00

11. In its calculations to find the monthly self-employment income, the Department did not use the \$838 "Other Expense" listed above. The Appellant's spouse testified that the "Other Expense" constitutes his cell phone bill. (Calculations Listed Below, Appellant's Testimony)

12. The Appellant does not pay for any Child Support expenses or Dependent Care costs. The Appellant's spouse has an out-of-pocket medical expense that is paid

monthly, but the Appellant never reported that expense to the Department. (Appellant's Testimony)

13. The Appellant pays \$600 per month in rent. All utilities are included in the rent. (Exhibit 1, Exhibit 4, Exhibit 6)
14. Effective [REDACTED] 2020, the Appellant's SNAP benefit decreased to \$333 per month. (Exhibit 1, Exhibit 3)
15. On [REDACTED] 2021, the hearing record was reopened in order for the Department to further explain which self-employment expenses that were used in the monthly income calculation. Compliance was due by [REDACTED] 2021. (OLCRAH Reopen Letter)
16. On [REDACTED] 2021, the Department submitted an explanation of expenses, but was unable to clarify what the expenses were, or whether or not those expenses were counted. (Department's Email)
17. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 60 days of the request for an administrative hearing. The hearing request was received on [REDACTED], 2020. An additional [REDACTED] days were added for the reopening of the record, therefore, this decision is due no later than [REDACTED] 2021.

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. "*General.* No household may participate beyond the expiration of the certification period assigned in accordance with §273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements." Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.14(a)

The Department correctly issued the Appellant a W-1ER Renewal of Eligibility form. The Appellant's SNAP certification period correctly ended on [REDACTED], 2020. The Department processed the renewal in a timely manner, correctly resulting in the Appellant's new certification period beginning [REDACTED] 2020.

3. *“Household members meeting citizenship or alien status requirements.* No person is eligible to participate in the Program unless that person is: (1) A U.S. citizen (2) A U.S. non-citizen national.” 7 C.F.R. § 273.4 (a) (1) & (2)
4. *“Ineligible household members.* The following persons are not eligible to participate as separate households or as a member of any household: (i) Ineligible aliens and students as specified in §§273.4 and 273.5, respectively.” 7 C.F.R. § 273.1 (b)(7)(i)
5. *“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. (i) Spouses; (ii) 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)(i) & (ii)

The Department correctly determined that the Appellant’s spouse must be added to the SNAP Assistance Unit, effective [REDACTED] 2020, as he is now a citizen of the United States.

6. *“Definition of income.* Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section. (ii) The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the costs of doing business as provided in paragraph (c) of this section.” 7 C.F.R. §273.9 (b)(ii)
7. *“Income exclusions.* Only the following items shall be excluded from household income and no other income shall be excluded:... The cost of producing self-employment income. The procedures for computing the cost of producing self-employment income are described in §273.11.” 7 C.F.R. § 273.9 (c)(9)
8. *“Self-employment income.* The State agency must calculate a household's self-employment income as follows: (1) *Averaging self-employment income.* (i) Self-employment income must be averaged over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the State agency must calculate the self-employment income on the basis of anticipated, not prior, earnings.” 7 C.F.R. § 273.11 (a)(1)(i)
9. *“Determining monthly income from self-employment.* (i) For the period of time over which self-employment income is determined, the State agency must add all gross self-employment income (either actual or anticipated, as provided in paragraph (a)(1)(i) of this section) and capital gains (according to paragraph (a)(3) of this section), exclude the costs of producing the self-employment income (as determined in paragraph (a)(4) of this section), and divide the remaining amount of self-employment income by the number of months over which the income will

be averaged. This amount is the monthly net self-employment income. The monthly net self-employment income must be added to any other earned income received by the household to determine total monthly earned income.” 7 C.F.R. § 273.11 (a)(2)(i)

10. *“Allowable costs of producing self-employment income. (1) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor; stock; raw material; seed and fertilizer; payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; and taxes paid on income-producing property.”* 7 C.F.R. § 273.11 (b)(1)

The Department correctly determined the monthly income, after allowable costs, for self-employment Income #2, as listed in the chart above. (also see Exhibit 2: 2019 Tax Return Transcript)

The Department correctly determined that there are no allowable costs listed under “Expenses” on the [REDACTED] Tax Return Transcript. The Department correctly calculated the income as follows:

$\$8,817$ (gross income) - $\$0$ (allowable costs) = $\$8,817$

$\$8,817 / 12$ months = $\$734.75$ monthly net self-employment income.

The $\$734.75$ is accurately reflected on Exhibit 6.

The Department incorrectly determined the monthly income, after allowable costs, for self-employment Income #1, as listed in the chart above.

Under Income #1, the allowable costs of doing business (listed as expenses) are $\$17,858$ in Car/Truck Expenses, and $\$838$ in Other Expenses (which the Appellant’s spouse testified as being his yearly cell phone bill).

The total yearly expenses should equal out to $\$18,696$.

$(\$17,858 + \$838 = \$18,696)$

However, the Tax Transcript lists the total yearly expenses as $\$18,837$. This creates a difference of $\$141$ between the total reported yearly expense figure and the sum of the actual expenses listed.

$(\$18,837 - \$18,696 = \$141)$

The Department incorrectly determined the Appellant’s monthly net self-employment income for Income #1 as $\$1,566.75$.

The Department incorrectly added only the \$17,858 Car/Truck Expense and the \$141 unexplained expense. They excluded the \$838 Other Expense for their calculation.

$(\$17,858 + \$141 = \$17,999)$

The incorrect total expense was then subtracted from the total gross self-employment income for Income #1, and then divided by 12 months.

$(\$36,800 - \$17,999 = \$18,801 / 12 \text{ months} = \$1,566.75 \text{ net self-employment income})$

In short, the monthly determination for Income #1 is incorrect because the Department failed to incorporate the \$838 Other Expense in their calculation. They also used an unexplained \$141 expense in their calculation, as well.

DISCUSSION

The only way the Department was able to determine the monthly net self-employment income of \$1,566.75 was to only take into consideration the \$17,858 Car/Truck Expense and the \$141 unexplained expense.

Though the Department stated in their email that the \$838 “Other” Expense is being counted, the math listed above shows that it is not being counted. That expense should be counted, as the Appellant’s spouse testified this is his cell phone bill. Given the nature of his work as a [REDACTED], a cell phone is a necessary business expense and therefore should be counted.

DECISION

Appellant’s appeal is **REMANDED** back to the Department.

ORDER

The Department must take the following actions. **Compliance is due by** [REDACTED].

1. Recalculate the net self-employment income of Income #1 using the \$17,858 Car/Truck Expense, the \$838 Other Expense and the \$141 expense (if applicable). This should be updated back to [REDACTED] 2020.

Joshua Couillard

Joshua Couillard
Fair Hearing Officer

Pc. Rachel Anderson, New Haven Regional Operational Manager
Cheryl Stuart, New Haven Regional Operational Manager
Lisa Wells, New Haven Regional Operational Manager
Ferris Clare, Fair Hearing Liaison

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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 with 45 days of the mailing of this decision, or 45 days after the agency denies 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, 53 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.