

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 her Supplemental Nutrition Assistance Program (“SNAP”) benefits would be reduced to \$94 per month, effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the reduction of her SNAP benefits.

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

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

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“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 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing. The following individuals participated in the hearing:

Appellant, [REDACTED]  
Appellant's Spouse/Interpreter, [REDACTED]  
Department's Representative, Debra James  
Hearing Officer, Joshua Couillard

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly reduced the Appellant's SNAP benefits to \$94 per month, effective [REDACTED] 2020.

### **FINDINGS OF FACT**

1. The Appellant's household consists of two people – herself and her spouse. (Appellant's Testimony)
2. The Appellant is 66-years-old. The Appellant's spouse is 56-years-old. (Appellant's Testimony)
3. No one in the home is disabled. (Appellant's Testimony)
4. The Appellant receives Social Security Retirement benefits. Dates received and amounts were as follows:

<b>Date Received</b>	<b>Amount</b>
[REDACTED]	\$609
[REDACTED]	\$615
[REDACTED]	\$623

(Exhibit 4: BENDEX Social Security Interface, Department's Testimony, Appellant's Testimony)

5. The Appellant receives \$61 per week in Unemployment Compensation Benefits ("UCB"). (Exhibit 3: Department of Labor UCB Interface, Exhibit 1: NOA, Appellant's Testimony)
6. The Appellant owns a two-family home. The Appellant and her spouse live in one unit of the home. They rent the other unit of the home for \$1,200.00 per month. (Exhibit 5: Proof of Rental Property Income, Appellant's Testimony, Hearing Record)
7. The Appellant's spouse works on the rental property. (Appellant's Testimony)

8. There were no verifications submitted regarding how many hours he works on the property or what he does during those hours. (Hearing Record)
9. The Appellant pays a mortgage in the amount of \$1,193 per month. Taxes and insurance are included in that mortgage amount. The Appellant is responsible for all utilities. (Appellant's Testimony)
10. The Appellant does not pay for any daycare costs, child support expenses or medical expenses totaling over \$35 per month. (Appellant's Testimony)
11. On [REDACTED] 2020, the Department issued a NOA to the Appellant stating her SNAP benefits would be reduced to \$94, effective [REDACTED] 2020, due to the Social Security benefits increasing to \$615 for [REDACTED]. (Exhibit 1, Department's Testimony)
12. In [REDACTED] 2020, due to the Coronavirus pandemic, the Appellant received an emergency SNAP supplement of \$280 in addition to her regular monthly SNAP benefit of \$94. Her total [REDACTED] 2020 SNAP benefit was \$374 – the maximum allotment for a household of two. The household has continued to receive the maximum amount of SNAP benefits in 2021 due to the emergency supplements. (Department's Testimony, Exhibit 7: Impact Benefit Issuance Screenshot)
13. 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 due to rescheduling, 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. "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 SNAP. 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 SNAP. 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 as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))." Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.9(a)

3. Unearned income shall include, but not be limited to: (i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in §271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income under the provisions of paragraph (c)(1) of this section. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.  
  
(ii) 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)(i) &(ii)

**The Department correctly determined that the Appellant received \$615 per month in Social Security for the month of ██████████ 2020.**

4. "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. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income. Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The State agency shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the State agency automatically attribute to the household the amounts of any past income. The State agency shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period." 7 C.F.R § 273.10 (c)(1)(ii)
5. "*Income averaging.* (i) Income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of

households. When averaging income, the State agency shall use the household's anticipation of monthly income fluctuations over the certification period. An average must be recalculated at recertification and in response to changes in income, in accordance with §273.12(c), and the State agency shall inform the household of the amount of income used to calculate the allotment. Conversion of income received weekly or biweekly in accordance with paragraph (c)(2)(i) of this section does not constitute averaging." 7 C.F.R. § 273.10 (c)(3)(i)

6. "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)

**The Department correctly calculated the Appellant's monthly Unemployment benefits. (\$61 per week x 4.3 = \$262.30 per month)**

7. "Earned income shall include: (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. Ownership of rental property shall be considered a self-employment enterprise; however, income derived from the rental property shall be considered earned income only if a member of the household is actively engaged in the management of the property at least an average of 20 hours a week. Payments from a roomer or boarder, except foster care boarders, shall also be considered self-employment income." 7 C.F.R. § 273.9 (b)(1)(ii)

**It cannot be determined if the income received from the rental property is earned income.**

8. "*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)

9. *“Calculating net income and benefit levels—(1) Net monthly income. (i) 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.” 7 C.F.R. § 273.10 (e)(1)(i)(A) & (B)

**The W-1216 SNAP Computation Sheet form (Exhibit 6) shows that the Department is counting all the household's income, including the rental property income, as unearned income.**

**The Department has not determined whether or not the Appellant's spouse works on the property for 20 hours or more per week. If he does, then the rental income would be counted as earned income, and the household would be eligible for the 20 percent earned income deduction.**

10. *“Thrifty Food Plan (TFP) and Maximum SNAP Allotments. (i) 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](http://www.fns.usda.gov/fsp).” C.F.R. § 273.10 (e)(4)(i)*

11. Field Operations Communication dated [REDACTED], 2020 issued general guidance pertaining to the changes of the Maximum SNAP Allotments:  
“Please note also effective [REDACTED] 2020, the maximum and minimum SNAP allotments are being increased.”

### Maximum SNAP Allotment

Household Size	Allotment
1	\$204
2	\$374
3	\$535
4	\$680
5	\$807
6	\$969
7	\$1071
8	\$1224
Each Additional Person	\$153

12. Field Operations Communication dated [REDACTED] 2020 issued general guidance pertaining to emergency SNAP supplements:  
“Authorized by the federal Families First Coronavirus Responses Act of 2020, The Department of Social Services (DSS) will again provide Emergency SNAP supplements to nearly half of Connecticut SNAP participants on [REDACTED], 2020. The benefit amount will be the difference between what the household received in [REDACTED] 2020 and what the maximum benefit amount is for their household size.”

**The Department correctly issued an emergency SNAP supplement for the month of [REDACTED] 2020 in the amount of \$280. That is in addition to the \$94 SNAP benefit that the Appellant received for the month. Together, the sum of those two amounts equals \$374 – the maximum SNAP allotment for a household size of two ( $\$280 + \$94 = \$374$ ).**

### DISCUSSION

**Due to legislation passed regarding the Coronavirus pandemic, households are eligible for the full allotment of SNAP benefits. In this case, despite being granted \$94 in SNAP for [REDACTED] 2020, the Appellant received the full \$374 allotment. This legislation is only temporary.**

**The Department needs to verify whether or not the Appellant’s spouse works on the rental property for 20 hours or more per week. If he does, then the rental income would be counted as earned income, which would allow the household a 20 percent earned income deduction and possibly a higher SNAP amount once the legislation mentioned above ends.**

### DECISION

The Appellant’s appeal is **REMANDED** back to the Department for further action.

**ORDER**

The Department must take the following actions:

1. Issue a request for the Appellant to provide verification of whether or not her spouse works on the rental property for 20 hours per week or more. If verification is received that the spouse does work 20 or more hours per week on the rental property, the Department shall recalculate the monthly SNAP allotment.
2. Compliance is due back to the undersigned no later than [REDACTED] 2021.

*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**  
**Debra James, 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 § 4-181a (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.