

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

██████████
██████████
Request # 177390

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

██████████ 2021, the Department of Social Services (the "Department") issued a notice of action to ██████████ ██████████ (the "Applicant") denying her application for Supplemental Nutrition Assistance Program ("SNAP") benefits.

██████████ 2021, ██████████ the "Appellant") requested an administrative hearing by telephone to contest the Department's denial of the SNAP application. Due to the Covid-19 pandemic concerns, the Appellant requested the hearing being held via telephone conference.

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

██████████ 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:

██████████ Appellant
Kristin Haggan, Department's Representative
Veronica King, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. ██████████ 2021, the Department received an online application for SNAP from the Applicant. The Applicant is █████ years old and receives \$529.34 per month in Social Security Disability ("SSI") unearned income. The Applicant listed ██████████ her mother, as her representative. (Exhibit 1: Application and Hearing Record)
2. ██████████ 2021, the Department conducted the required SNAP telephone interview with the Appellant. The Appellant reported that she lives with her husband and the Applicant is her █████ years old daughter. The Department determined that they have a SNAP household of three. (Exhibit 7: Case Notes details and Hearing Record))
3. The Appellant works at ██████████ ██████████ and earns \$120 bi-weekly. The Appellant's husband works at ██████████ and the Appellant reported him working an average 33hrs per week and earns \$21/hr. (Exhibit 7 and Hearing Record)
4. ██████████, 2021, based on the reported information, the Department determined that the SNAP household's total monthly income of \$3,737.24 (Applicant's SSI \$529.34 + Appellant's earnings \$120 *2.15 = \$258 + husband's earnings \$21 *33 hrs.= \$693 *4.3 = \$2,979.90). (Exhibit 4: Federal SNAP Income Test and Hearing Record)
5. ██████████ 2021, the Appellant reported she pays \$1,300 per month in rent and is responsible for all utilities. (Exhibit 7 and Appellant's Testimony)
6. The Appellant reported 3 bank accounts with balances of \$600, \$700, and \$146.03. (Exhibit 7 and Hearing Record)
7. ██████████, 2021, the Appellant reported that she and her husband own a house at ██████████ ██████████. The Appellant does not receive any monies from tenants. She reported that this house is ██████████ in litigation due not paying the mortgage and the house may go into foreclosure. The Appellant reported the property value as \$244,000 and stated that they still owing \$176,000. (Exhibit 7 and Hearing Record)
8. The Department determined that the Appellant's SNAP household have a total of countable assets of \$69,300 [\$600 + \$700 + \$68,000 (\$244,000 - \$176,000)]. (Exhibit 5: SNAP- Assets Test and Hearing Record).
9. ██████████ 2021, the Department sent a NOA to the Applicant denying her application for SNAP benefits. The notice stated that the total monthly net income of her household is more than the limit for the program. The notice also stated that the

value of the household assets is more than the amount allowed by the SNAP program. (Exhibit 6: NOA dated [REDACTED] 21)

10. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations § 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 [REDACTED] 2021; therefore, this decision is due no later than [REDACTED] 2021. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (7) 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 Code of Federal Regulations ("CFR") § 273.1(b)(ii) provides that the following individuals who live with others must be considered as customarily purchasing and preparing meals with others, even if they do not do so, and thus 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 parents.

UPM § 2020.10 provides that the assistance unit must include certain individuals who are in the home: a child under 18 under the parental control of a member of the assistance unit, a spouse of a member of the assistance unit including any who presents himself or herself as a spouse, children ages 18 through 21 living with their parents.

The Department correctly included the Applicant's mother and father as a SNAP household member.

4. 7 C.F.R. § 273.9 (a) provides that participation in the Program shall be limited to those households whose income 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 Applicant's SNAP household must meet the net income eligibility standard.

5. 7 C.F.R. § 273.9 (b) (2) (ii) addresses which types of unearned income are included in the calculation of the SNAP allotment, and provides that 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 shall be considered unearned income.

UPM § 5050.13 (A) (6) provides that benefits received from Social Security by any member of a SNAP assistance unit is counted in the calculation of eligibility and benefits for the entire unit.

The Department correctly determined that the Applicant's monthly gross Social Security income is \$529.34.

6. 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 earned income as \$258.00 (\$120 *2.15).

The Department correctly determined the Appellant's husband's monthly earned income as \$2,979.90 (\$21 *33hrs = \$693 *4.3).

The Department correctly determined that the Applicant's SNAP household monthly gross earned income as \$3,237.90 (\$258 + \$2,979.90).

7. 7 C.F.R. § 273.9(d) provides for income deductions. (2) Earned income deduction. Twenty percent of gross earned income as defined in paragraph (b)(1) of this section. Earnings excluded in paragraph (c) of this section shall not be included in gross earned income for purposes of computing the earned income deduction, except that the State agency must count any earnings used to pay child support that were excluded from the household's income in accordance with the child support exclusion in paragraph (c)(17) of this section.

UPM § 5045.15 (A) (3) provides the monthly net earned income is calculated by reducing monthly earnings by a deduction of 20% of the gross earnings for personal employment expenses.

UPM § 5045.15 (C) provides that the amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:

1. a deduction for farming losses, if any;
2. a disregard of \$167.00 per month for a household of three.
{effective ■■■ 21}
3. a deduction for unearned income to be used to fulfill a bona-fide plan to achieve self-support (PASS); Cross reference: 5035.15
4. the appropriate deduction for work-related dependent care expenses;
5. deduction for allowable medical expenses for those assistance unit members who qualify;
6. a deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
7. a deduction for shelter hardship, if applicable.

(Cross References: 5030 - "Income Disregards" and 5035 "Income Deductions")

UPM § 5045.15 (D) provides the remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

The Department correctly deducted 20% (\$647.58) of the household's gross monthly-earned income of \$3,237.90 to arrive at \$2,590.32 Adjusted Earned Income (\$3,237.90 - \$647.58).

The Department correctly determined the Applicant's SNAP household total monthly income equaled \$3,119.66 (\$2,590.32 adj. earnings income + \$529.34 SSI).

The Department correctly applied the \$167.00 standard deduction to the Applicant's SNAP household monthly income of \$3,119.66 to arrive at \$2,952.66.

8. 7 C.F.R. § 273.9(d)(6)(ii) provides for excess shelter deduction.

UPM § 5035.15 (F) (1) provides for the calculation of the shelter hardship for the SNAP and states in part that the amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:

- a. rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings.

The Department correctly determined that 50% of the Applicant's SNAP household adjusted gross income is \$1,476.33 (\$2,952.66 * 0.50).

9. 7 C.F.R. § 271.2 defines an 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; (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.

UPM § 5035.15 (F) (11) provides that for those units, which include elderly or disabled members, or units whose only elderly or disabled member has been disqualified, a shelter hardship deduction is allowed with no maximum limit.

The Department correctly determined the Applicant was eligible for an uncapped shelter deduction.

10. 7 C.F.R. § 273.9(d) (6) (iii) provides for the Standard Utility Allowance ("SUA"). (A) With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities. However, at its option, the State agency may include the excess heating and cooling costs of public housing residents in the LUA if it wishes to offer the lower standard to such households. The State agency may use different types of standards but cannot allow households the

use of two standards that include the same expense. In States in which the cooling expense is minimal, the State agency may include the cooling expense in the electricity component. The State agency may vary the allowance by factors such as household size, geographical area, or season. Only utility costs identified in paragraph (d)(6)(ii)(C) of this section must be used in developing standards.

UPM § 5035.15 (F) (6) provides that a SUA determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:

- a. the assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
- b. the bill is established on the basis of individualized metering of service to the unit; or
- c. the costs are paid:
 - (1) totally or partially by the unit; or
 - (2) partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit's total monthly heating or cooling costs; or
 - (3) totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.

The Department correctly allowed the Applicant the SUA.

The Department correctly determined the Applicant's SNAP household shelter cost is \$2,036.00 (\$1,300 mortgage + \$736.00 SUA).

The Department correctly determined the Applicant's SNAP household shelter hardship is \$559.67 (\$2,036.00 - \$1,476.33).

The Department correctly determined the Applicant's SNAP household net adjusted income is \$2,392.99 (\$2,952.66 - \$559.67 shelter hardship).

11. 7 C.F.R. § 273.10 (e) (2) (ii) (A) provides 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: (1) The State agency shall round the 30 percent of net income up to the nearest higher dollar.

UPM § 6005 (C) provides that in the SNAP, the amount of benefits is calculated by: (1) multiplying the assistance unit's applied income by 30%; and (2) rounding the product up to the next whole dollar if it ends in 1-99 cents; and (3) subtracting the rounded product from the Food Stamp standard of assistance for the appropriate unit size.

The Department correctly determined that 30% of the Applicant's SNAP household net adjusted income, rounded up, was \$717.90 (\$2,392.99 * 0.30).

12.7 C.F.R. § 273.10(e) (4) (i) provides for the Thrifty Food Plan ("TFP") and Maximum Food Stamp Allotments. Maximum food stamp allotment level. Maximum food stamp 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

UPM § 4535.10 (A) (1) provides that the Thrifty Food Plan represents the minimum food expenditure that is required to meet an assistance unit's basic monthly nutritional requirements and the maximum amount of benefits available to a qualified assistance unit with no applied income.

UPM § 4535.10 (A) (2) provides that the Thrifty Food Plan standards vary according to the size of the assistance units and are uniform statewide for assistance unit of equal size.

UPM § P4535.10 provides the Thrifty Food Plan for a qualified assistance unit with no applied income for a household of three is \$535.00.

13.7 C.F.R. § 273.8 provides for resource eligibility standards and the maximum allowable liquid and non-liquid financial resources off all members of a household including one or more member is elderly or has a disability.

UPM § 4015.15 (A) provides for types of inaccessible assets and states in part that assets considered inaccessible to the assistance unit under the Food Stamps program, include but are not limited to: A. property in probate.

The Department incorrectly determined that the Applicant's total SNAP household countable assets is \$69,300.

14. The Appellant's SNAP benefit is computed as follows:

SNAP BENEFIT CALCULATION

<u>EARNED INCOME</u>	
Applicant's household	
Total Earned Income	<u>\$3237.90</u>
Less 20%	-\$647.58
Adjusted Earned Income	<u>=\$2590.32</u>
<u>UNEARNED INCOME</u>	
Social Security	+\$529.34
Total Income	<u>=\$3119.66</u>
Less standard deduction	-\$167.00
Adjusted Gross Income	<u>=\$2952.66</u>
<u>SHELTER COSTS</u>	
Mortgage	\$1300.00
SUA	<u>\$736.00</u>
Total shelter costs	<u>\$2036.00</u>
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$2,936.00
Less 50% of adjusted gross income	<u>-\$1476.33</u>
Total shelter hardship	<u>\$559.69</u> (Cannot exceed \$586 unless elderly or disabled)
<u>NET ADJUSTED INCOME</u>	
Adjusted gross income	\$2952.66
Less shelter hardship	<u>-\$559.69</u>
Net Adjusted Income (NAI)	<u>\$2392.99</u>
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 3 people	\$535
Less 30% of NAI	<u>-\$718</u>
SNAP award	<u>\$0.00</u>

The Department correctly determined the Applicant's SNAP household monthly net income of \$2,392.22 exceeded the net income limit.

██████████ 2021, based on the information provided by the Appellant, the Department correctly denied the Applicant's ██████████ 2021, application for the SNAP.

DISCUSSION

The Department determined the Applicant's eligibility for the SNAP benefits based on the information given by the Appellant. At the [REDACTED], 2021 hearing, the Appellant provided new information regarding her husband's earnings and the property located at [REDACTED] CT. Although the Department did not request more information regarding such property litigation status before determining the countable asset value; it is clear, based on the information given by the Appellant, that on [REDACTED] 2021, the Department correctly determined that the SNAP household was over the net income limit for the SNAP.

The Appellant was encouraged to reapply for the SNAP and provide all necessary information and verification regarding income and assets.

DECISION

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

Veronica King

Veronica King
Hearing Officer

Cc: Cheryl Stuart, DSS Operations Manager, RO# 40 Norwich
Kristin Haggan, Fair Hearing Liaison, RO# 40 Norwich

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.