

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

██████████
Signature Confirmation

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

NOTICE OF DECISION

PARTY

██████████
██
██████████

PROCEDURAL BACKGROUND

On ██████████ the Department of Social Services (the “Department”) sent ██████████
██████████ (the “Appellant”) a Notice of Action (“NOA”) denying his benefits under the
Supplemental Nutritional Assistance Program (“SNAP”).

On ██████████, the Appellant requested an administrative hearing to contest the
Department’s decision to deny such benefits.

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

On ██████████, 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
telephonically.

The following individuals were present at the hearing:

██████████, Appellant
Amy Macdonough, Department’s Representative
Sara Hart, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department's decision to deny the Appellant's SNAP application was correct.

FINDINGS OF FACT

1. On [REDACTED], the Appellant applied for SNAP benefits for a household of two, including the Appellant and his spouse, [REDACTED] [REDACTED]. (*Exhibit 8: Online Application*)
2. The Appellant is 65 years old (DOB is [REDACTED]). His spouse is 60 years old (DOB [REDACTED]). (*Exhibit 8, Appellant's Testimony*)
3. The Appellant is disabled and receives \$1207.50 per month in Social Security Disability ("SSDI") income. (*Exhibit 3: Case Notes, Appellant's Testimony*)
4. The Appellant is a U.S. Citizen. His spouse is a Legal Permanent Resident. She entered the United States in [REDACTED] and was granted Lawful Permanent Resident ("LPR") status on [REDACTED]. (*Appellant's Testimony, Exhibit 9: SAVE Response*)
5. On [REDACTED], the Department reviewed the application and completed an interview. The Department sent the Appellant a Proofs We Need form ("W1348") requesting the following information for the spouse: proof of your sponsor's name, address, income, assets, and number of tax dependents, and proof of why we should not count your sponsor's income and assets. The form listed examples of acceptable documents and requested completion and return of forms W726 and W727. The Department gave a due date of [REDACTED]. (*Exhibit 6: Proofs We Need letter [REDACTED]*)
6. On [REDACTED], the Department received the completed W727. (*Exhibit 3*)
7. [REDACTED] (the "sponsor") sponsor's the Appellant's spouse. He resides in [REDACTED] [REDACTED] and does not have any dependents. The sponsor does not provide income to the Appellant's household. (*Exhibit 1: W727, Exhibit 9, Appellant's Testimony*)
8. On [REDACTED], the Department determined that the Appellant's spouse had zero lifetime qualifying work quarters. (*Exhibit 3*)
9. The Department did not consider the Appellant's lifetime qualifying work quarters. (*Exhibit 3*)

10. On [REDACTED], The Department sent the Appellant a second W1348 requesting proof of the sponsor's gross earnings. The form listed examples of acceptable documents and gave a due date of [REDACTED]. (*Exhibit 7: Proofs We Need letter [REDACTED]*)
11. On [REDACTED], the Department received one wage stub for the sponsor noting a pay period of [REDACTED] through [REDACTED]1 with a pay date of [REDACTED] (*Exhibit 2: [REDACTED] EStub, Exhibit 3*)
12. The Department did not receive verification of the sponsor's assets. (*Department's Testimony*)
13. The Department failed to consider the Appellant's spouse's indigence as an exemption to sponsor deeming. (*Hearing Record*)
14. On [REDACTED] the Department sent the Appellant a Notice of Action denying the Appellant's application for SNAP benefits for failure to return all the required proofs by the due date. (*Exhibit 4: NOA [REDACTED]*)
15. The issuance of this decision is timely under the Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.15, which states that a decision must be reached and the household notified within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED]; therefore, this decision is due no later than [REDACTED].

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. 7 C.F.R. § 273.2(c)(4)(iv) provides for application date and states the date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day.

7 C.F.R. § 273.2(e)(1) provides for interviews and states that except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this section, households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter.

The Department correctly determined the application date of [REDACTED] and correctly interviewed the Appellant on [REDACTED].

3. 7 C.F.R. § 273.4(a) provides for citizenship requirements and alien qualifications and states 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
 - (3) An individual who is:
 - (i) An American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply; or
 - (ii) A member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians;
 - (4) An individual who is:
 - (i) Lawfully residing in the U.S. and was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975;
 - (ii) The spouse, or surviving spouse of such Hmong or Highland Laotian who is deceased, or
 - (iii) An unmarried dependent child of such Hmong or Highland Laotian who is under the age of 18 or if a full-time student under the age of 22; an unmarried child under the age of 18 or if a full time student under the age of 22 of such a deceased Hmong or Highland Laotian provided the child was dependent upon him or her at the time of his or her death; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday. For purposes of this paragraph (a)(4)(iii), child means the legally adopted or biological child of the person described in paragraph (a)(4)(i) of this section, or
 - (5) An individual who is:
 - (i) An alien who has been subjected to a severe form of trafficking in persons and who is certified by the Department of Health and Human Services, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA; or
 - (ii) An alien who has been subjected to a severe form of trafficking in persons and who is under the age of 18, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA;
 - (iii) The spouse, child, parent or unmarried minor sibling of a victim of a severe form of trafficking in persons under 21 years of age, and who has received a derivative T visa, to the same extent as an alien who is

- admitted to the United States as a refugee under Section 207 of the INA;
or
- (iv) The spouse or child of a victim of a severe form of trafficking in persons 21 years of age or older, and who has received a derivative T visa, to the same extent as an alien who is admitted to the United States as a refugee under Section 207 of the INA; or
 - (6) An individual who is both a qualified alien as defined in paragraph (a)(6)(i) of this section and an eligible alien as defined in paragraph (a)(6)(ii) or (a)(6)(iii) of this section.
 - (i) A qualified alien is:
 - (A) An alien who is lawfully admitted for permanent residence under the INA;

The Department correctly determined that the Appellant's spouse is a qualified and eligible alien.

- 4. 7 C.F.R. § 273.4(c) provides for household containing sponsored alien members and defines a sponsored alien as alien for whom a person (the sponsor) has executed an affidavit of support (USCIS Form I-864 or I-864A) on behalf of the alien pursuant to section 213A of the INA.

The Department correctly determined the Appellant's spouse is a sponsored alien.

- 5. 7 C.F.R. § 273.4(c)(2) provides for deeming of sponsor's income and resources and states for purposes of this paragraph (c)(2), only in the event a sponsored alien is an eligible alien in accordance with paragraph (a) of this section will the State agency consider available to the household the income and resources of the sponsor and spouse. For purposes of determining the eligibility and benefit level of a household of which an eligible sponsored alien is a member, the State agency must deem the income and resources of sponsor and the sponsor's spouse, if he or she has executed USCIS Form I-864 or I-864A, as the unearned income and resources of the sponsored alien. The State agency must deem the sponsor's income and resources until the alien gains U. S. citizenship, has worked or can receive credit for 40 qualifying quarters of work as described in paragraph (a)(6)(ii)(A) of this section, or the sponsor dies.

7 C.F.R. § 273.4 (a)(6)(ii)(A) provides for work quarters and states an alien age 18 or older lawfully admitted for permanent residence under the INA who has 40 qualifying quarters as determined under Title II of the SSA, including qualifying quarters of work not covered by Title II of the SSA, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the

alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.

The Department correctly reviewed the spouse's qualifying work quarters; however, the Department failed to consider crediting the Appellant's work quarters to his spouse.

6. 7 C.F.R. § 273.4(c)(3) provides in part for exempt aliens. The provisions in paragraph (c)(2) of this section do not apply to:

(iv) An indigent alien that the State agency has determined is unable to obtain food and shelter taking into account the alien's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s). Prior to determining whether an alien is indigent, the State agency must explain the purpose of the determination to the alien and/or household representative and provide the alien and/or household representative the opportunity to refuse the determination. If the household refuses the determination, the State agency will not complete the determination and will deem the sponsor's income and resources to the alien's household in accordance with paragraph (c)(2) of this section. The State agency must inform the sponsored alien of the consequences of refusing this determination. For purposes of this paragraph (c)(3)(iv), the phrase "is unable to obtain food and shelter" means that the sum of the eligible sponsored alien's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance the sponsor and others provide, does not exceed 130 percent of the poverty income guideline for the household's size.

The Department failed to provide the Appellant's household with an opportunity to claim indigence.

7. 7 C.F.R. § 273.2(g)(1) provides for the normal processing standard. The State agency shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but no later than 30 calendar days following the date the application was filed.

7 C.F.R. § 273.2(g)(3) provides for denying the application and states households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than 30 days following the date the application was filed.

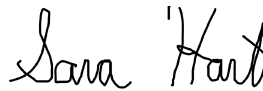
The Department incorrectly denied the Appellant's SNAP application on [REDACTED], [REDACTED] because it failed to fully consider exemptions to deeming of the spouse's sponsor's income.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's SNAP application, effective [REDACTED].
2. The Department shall review the Appellant's qualifying work quarters and assign credit to the spouse if qualifying work quarters for the Appellant are confirmed.
3. The Department shall provide the Appellant's household with an opportunity to claim indigence.
4. Compliance with this order is due to the undersigned no later than [REDACTED].



Sara Hart
Hearing Officer

CC: Brian Sexton, Operations Manager Middletown Regional Office
Amy Macdonough, Department Representative Middletown Regional Office
Chris Filek, Department Representative Hartford 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: 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.

