

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

CL ID # ██████████
Case ID # ██████████
Hearing Request # 177591

NOTICE OF DECISION

PARTY

██████████
████████████████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████, 2021, the Department of Social Services (the “Department”) issued a Notice of Action to ██████████ (the “Appellant”) discontinuing his household’s SNAP benefits effective ██████████ 2021.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department’s decision to discontinue his SNAP benefits.

On ██████████ 2021, 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 an administrative hearing. The following individuals were present at the hearing:

██████████, the Appellant
Debra James, Department’s representative
Scott Zuckerman, Hearing Officer

The hearing record was held open for the submission of additional evidence by the Department. The hearing record closed on ██████████, 2021.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's SNAP benefits is correct.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Appellant submitted his SNAP renewal form. The Appellant reported a household of seven including himself, his spouse and five children. (Appellant's testimony and Hearing Summary)
2. There are no elderly or disabled members of the household. (Appellant's testimony and Hearing Summary)
3. The Appellant is self-employed and is the owner of [REDACTED]. (Appellant's testimony and Exhibit 1: 2020 Federal Income Tax Return)
4. The Appellant's spouse receives unemployment compensation benefits ("UCB") of \$198.00 weekly. (Appellant's testimony, Hearing Summary)
5. The Appellant claimed gross receipts or sales of \$544,509.00, returns and allowances of \$2691, cost of goods sold of \$272,999.00 for gross profit and income of \$268,819.00. (Exhibit 1: 2020 Federal Income tax return, Schedule C)
6. The Appellant claimed the following business expenses on his 2020 Federal Income Tax Schedule C (Profit or Loss from Business):

\$15,696.00	Advertising
\$9553.00	Car and Truck expenses
\$800.00	Contract Labor
\$4529.00	Insurance (other than health)
\$4300.00	Other
\$2100.00	Legal and Professional Services
\$21,127.00	Other business property
\$7660.00	Repairs and maintenance
\$7620.00	Taxes and Licenses
\$15,622.00	Utilities
\$80,712.00	Wages
<u>\$51,721.00</u>	Other expenses (Credit Card Processing Fee, Cintas, Bank Fee, Phone and Internet, Trash, Grubhub Fee, Uber Fee, Equipment, Pest Control, All Hungry Fees, Cleaning service, Property Tax, Hood Cleaning)
\$221,440.00	Total Expenses

(Exhibit 1: 2020 Federal Income Tax Return, Schedule C and Exhibit 5: Self Employment – Schedule C self-employment screens)

7. The Appellant claimed his profit after expenses were \$47,379.00 (268,819 gross profit - \$221,440.00 total expenses). (Exhibit 1)
8. The Appellant pays \$512.00 monthly for rent. (Appellant's testimony, Hearing Summary)
9. The Appellant pays for heating expenses and received the Standard Utility Allowance ("SUA"). (Hearing Record)
10. On ██████████ 2021, the Department issued a Notice of Action, discontinuing the Appellant's SNAP benefits effective ██████████ 2021 because, "the amount of income we count is higher than the maximum SNAP benefit for your household size." (Exhibit 4)
11. The issuance of this decision is timely under the Code of Federal Regulations § 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 ██████████ 2021. Therefore, this decision is due not later than ██████████ 2021, and is therefore timely. (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 program in accordance with federal law.
2. "The Department's uniform policy manual is the equivalent of a 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 Maintenance*, 214 Conn. 601, 573 A.2d (1990)).
3. Title 7 of the Code of Federal Regulations ("CFR") § 273.9(b)(2)(ii) provides for counting unemployment compensation benefits as unearned income.
4. Title 7 CFR § 273.10(c)(2)(i) provides that 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.
5. "For past months the Department uses the exact amount of the unit's available income received or deemed in the month. "Uniform Policy Manual ("UPM") § 5025.05(A)(1)
6. "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: a.

if income is the same each week, the regular weekly income is the representative weekly amount.” UPM § 5025.05(B)(2)(a)

The Department correctly determined that the Appellant’s spouse’s monthly gross unearned income from UCB was \$851.40 (\$198 week x 4.3 weeks)

7. Title 7 of the Code of Federal Regulations (“CFR”) § 273.11(a)(1)(i) provides that 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.
8. Title 7 of the CFR § 273.11(a)(2) provides that when determining monthly income from self-employment and states that 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.

The Department was correct when it counted the income the Appellant received from his business as provided for in the Code of Federal Regulations.

9. Title 7 of the CFR § 273.11(b)(1) provides for allowable costs of producing self-employment income and states that 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.
10. Title 7 of the CFR § 273.11(b)(2) provides that in determining net self-employment income, the following items are not allowable costs of doing business: (i) Net losses from previous periods; (ii) Federal, State and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 20 percent earned income deduction specified in §273.9(d)(2); (iii) Depreciation; and (iv) Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

Uniform Policy Manual (“UPM”) § 5035.15(A)(1) provides the income earned by any member of the assistance unit through self-employment is adjusted by subtracting the following costs of producing income as they apply:

- a. payments to employees;
- b. cost of stock, raw material, seed, or fertilizer;
- c. interest paid to purchase income-producing property;
- d. insurance premiums and taxes paid on income-producing property; and
- e. cost of providing meals in day care programs to children, other than the provider’s own, and to adults.

The Department was correct when it deducted the following from the Appellant’s gross income: the cost of goods sold (\$272,999.00).

The Department was incorrect when it did not allow all the expenses associated with the costs of doing business:

The following are considered allowable costs of producing self-employment income:

\$15,696.00	Advertising
\$9553.00	Car and Truck expenses
\$800.00	Contract Labor
\$4529.00	Insurance (other than health)
\$4300.00	Other
\$2100.00	Legal and Professional Services
\$21,127.00	Other business property
\$7660.00	Repairs and maintenance
\$7620.00	Taxes and Licenses
\$15,622.00	Utilities
\$80,712.00	Wages
<u>\$51,721.00</u>	Other expenses (Credit Card Processing Fee, Cintas, Bank Fee, Phone and Internet, Trash, Grubhub Fee, Uber Fee, Equipment, Pest Control, All Hungry Fees, Cleaning service, Property Tax, Hood Cleaning)
\$221,440.00	Total Expenses

The Department was incorrect when it determined the net business gain of \$53,096.00.

The Correct net business gain is \$47,379.00 (\$268,819 gross profit - \$221,440 allowable costs of producing self - employment income).

The Department was incorrect when it determined the Appellant's net monthly self-employment income of \$4424.67 (\$53,096.00 / 12). The correct net monthly self-employment income is \$3948.26 (\$47,379 / 12).

The Department incorrectly determined the Appellant's total gross household income was \$5276.07 (\$851.40 UCB + \$4424.67 self-employment income). The correct total gross household income is \$4799.65 (\$851.40 UCB + \$3948.25 self-employment income).

11. Title 7 C.F.R. § 273.9(d)(1)&(2) provides for standard deductions and earned income deductions.

UPM § 5045.15 provides that the amount of applied income upon which the level of SNAP benefits is based is calculated in the following way:

- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 1. the actual amount of self-employment expenses, if applicable; and
 2. any earned income deductions approved by the Social Security Administration in regards to individual self-support plans (Cross reference: 5035.15); and
 3. a deduction of 20% of the gross earnings for personal employment expenses.
- B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
- C. 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 \$243.00 per month, effective 10-1-20
 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. a 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")

- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

The Department incorrectly applied the 20% earned income deduction to the Appellant's earnings for an adjusted earned income of \$3539.74 (20% of \$4424.67). The correct adjusted earned income is \$3158.60 (20% of \$3948.25).

The Department incorrectly applied the standard deduction of \$243.00 to the total income of \$4391.14 (3539.74 adjusted earned income + \$851.40 UCB) for an adjusted gross income of \$4148.14. The corrected adjusted gross income is \$3767.00 (\$3158.60 adjusted earned income + \$851.40 UCB = \$4010.00 total income - \$243.00 standard deduction)

12. Title 7 CFR § 273.9 d(6)(ii) provides for excess shelter deduction and states in part that monthly shelter expenses in excess of 50 percent of the household' income after all other deductions in paragraphs (d)(1) through (d)(5) of this section have been allowed. 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. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12-month period ending the previous November 30. FNS will notify State agencies of the amount of the limit. Only the following expenses are allowable shelter expenses: (A) Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments. (B) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

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;
- b. taxes, state and local assessments, and insurance on real property;
- c. the entire amount paid as a condominium fee;

13.7 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 standard utility allowance 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 separate 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.

14. UPM § 5035.15 (F)(10) provides that for those units, which do not have any members who are elderly or disabled, a maximum shelter hardship deduction, which is established by the USDA, is allowed. The maximum shelter hardship is revised annually effective October 1. (Maximum effective October 2020 is \$586.00)

The Department correctly determined the Appellant's shelter costs were \$1248.00 (\$512.00 rent + \$736.00 SUA).

The Department correctly determined the Appellant's shelter hardship was \$0.00 (\$1248.00 shelter costs - \$1883.50, fifty percent of adjusted gross income)

The Department incorrectly determined the Appellant's applied income was \$4148.14. The correct applied income is \$3767.00 (\$3767.00 - \$0.00 shelter hardship).

15. 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 incorrectly determined that the Appellant's 30% net adjusted income was \$1245.00(\$4148.14 x 30%). The correct 30% net adjusted income was \$1131.00 (\$3767.00 applied income x 30%).

16. The Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

<u>INCOME</u>	
Earned Income	\$3948.25
Less 20%	\$789.65
Net Earned Income	\$3158.60
Unemployment	\$851.40
Total Unearned Income	\$851.40
Total Countable Income	\$4010.00
Less standard deduction	\$243.00
Adjusted gross income	\$3767.00
<u>SHELTER COSTS</u>	
Rent	\$512.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1248.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1248.00
Less 50% of adjusted gross income	<u>-\$1883.50</u>
Total shelter hardship	\$0.00 (Cannot exceed \$586 unless elderly or disabled)
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$3767.00
Less shelter hardship	<u>-\$0.00</u>
Net Adjusted Income (NAI)	\$3767.00
Net Income Limit for 7	\$3304.00
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for seven people	\$1232.00
Less 30% of NAI	<u>-\$1131.00</u>
SNAP award	\$101.00

The Department was incorrect in discontinuing the Appellant's SNAP benefits by not allowing all the business expenses provided on the Appellant's Schedule C form from his 2020 Federal Income Tax return.

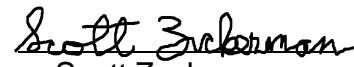
On [REDACTED] 2021, the Department incorrectly discontinued the Appellant's SNAP benefits effective [REDACTED] 2021, without allowing for all self-employment expenses as set forth in federal regulations.

DECISION

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

ORDER

1. The Department will reopen the Appellant's SNAP benefits effective [REDACTED] 2021.
2. The Department, providing all other eligibility factors are met, will determine eligibility based on the Appellant's net self –employment income by allowing the deductions for the costs of doing business as set forth in this decision.
3. No later than 20 days from the date of this decision, the Department will submit proof to the undersigned of compliance with this order.


Scott Zuckerman
Hearing Officer

CC: Rachel Anderson, Operations Manager, DSS, New Haven Regional Office
Mathew Kalarickal Operations Manager, DSS, New Haven Regional Office
Debra James, Fair Hearing Liaison, New Haven 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.