

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

[REDACTED], 2021
Signature confirmation

Case: [REDACTED]
Client: [REDACTED]
Request: 179394

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2021, the Department of Social Services (the "Department") issued a *Notice of Action* to [REDACTED] (the "Appellant") reducing her household's Supplemental Nutrition Assistance Program ("SNAP") benefits from \$430.00 to \$249.00 per month, effective [REDACTED] 2021.

On [REDACTED] 2021, the Appellant filed an online request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH").

On [REDACTED] 2021, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for [REDACTED] 2021.

On [REDACTED], 2021, in accordance with Sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, and Section 273.15 of Title 7 of the Code of Federal Regulations ("C.F.R."), the OLCRAH held an administrative hearing by telephone conferencing. The following individuals participated:

[REDACTED], Appellant
Garfield White, Department representative
Eva Tar, Hearing Officer

The close of the hearing record was extended to permit the Appellant the opportunity to submit written comment as to additional exhibits submitted by the Department by email. The hearing record closed on [REDACTED] 2021.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined the amount of SNAP benefits the Appellant's household was eligible to receive for the [REDACTED] 2021 service month.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old. (Appellant Testimony)
2. The Appellant lives with her [REDACTED]-year-old son; the household contains no additional members. (Appellant Testimony)
3. The Appellant and her son are not disabled. (Appellant Testimony)
4. The Appellant's rent equals \$750.00 per month with heat included in the rent; electricity is not included in the rent. (Appellant Testimony)
5. The Appellant receives unemployment compensation and child support; there is no other income received by the household. (Appellant Testimony)
6. The Appellant grosses \$586.00 in unemployment compensation per week. (Exhibit 7)
7. The Department does not count \$300.00 of the Appellant's gross unemployment compensation per week, due to the public health emergency. (Department Representative Testimony) (Field Operations Communication, [REDACTED] 2021)
8. The Appellant's child support varies from month to month. (Appellant Testimony)
9. From [REDACTED] 2021 through [REDACTED], 2021, the State of Connecticut disbursed child support collected to the Appellant as follows: \$126.03 ([REDACTED] 2021); \$147.64 ([REDACTED] 2021); and \$130.84 ([REDACTED] 2021). (Exhibit 7)
10. When calculating a household's monthly SNAP benefits, the Department averages the three most recent months of child support received. (Department Representative Testimony)
11. In [REDACTED] 2021, the standard deduction equaled \$167.00 per month. (Exhibit 3)
12. In [REDACTED] 2021, the shelter hardship cap equaled \$586.00. (Exhibit 3)
13. In [REDACTED] 2021, the maximum allotment amount for Federal SNAP equaled \$430.00 for a household of two. (Exhibit 3)
14. In [REDACTED] 2021, the standard utility allowance ("SUA") in Connecticut equaled \$736.00 per month. (Department Representative Testimony)
15. On [REDACTED] 2021, the Department recertified the Appellant's SNAP case for the SNAP certification period of [REDACTED] 2021 through [REDACTED] 2022. (Exhibits 1 and 3)

16. On [REDACTED] 2021, the Department notified the Appellant that her household was eligible for \$249.00 per month in SNAP benefits, effective [REDACTED] 2021. (Exhibit 4)
17. Title 7, Section 273.15 (c)(1) of the Code of Federal Regulations (“C.F.R.”) provides that “[w]ithin 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 are notified of the decision....”

The OLCRAH received the Appellant’s hearing request on [REDACTED] 2021, which required the hearing decision to be issued by [REDACTED] 2021. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

“The commissioner shall make periodic investigations to determine eligibility and may, at any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the ... supplemental nutrition assistance program....” Conn. Gen. Stat. § 17b-80 (a).

The Department had the authority to modify the Appellant’s SNAP benefit when necessary to carry out the provisions of the SNAP.

2. “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).

The Appellant and her son were a SNAP household of two.

3. “Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.” 7 C.F.R. § 273.9 (b).

“Unearned income shall include, but not be limited to: (i) ... ; (ii) ... ; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in §272.12; ... ; (iii) Support or alimony payments made directly to the household from nonhousehold members....” 7 C.F.R. § 273.9 (b)(2).

<Field Operations Communication, 3/23/2021> provides the following guideline as to Federal Pandemic Unemployment Compensation (FPUC) and the SNAP: “FPUC provides an additional supplement per week benefit for unemployment claimants. This includes the initial payments of \$600 and the additional \$300 payments through September 6, 2021. ... SNAP: Not countable income. If household has an asset test, it is excluded for nine months after receipt.”

For the purposes of the SNAP, \$300.00 of the Appellant's \$586.00 (gross) weekly unemployment compensation is not included in the household's counted income.

4. Title 7, Section 273.10 (c)(1)(ii) of the Code of Federal Regulations provides:
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....

7 C.F.R. § 273.10 (c)(1)(ii).

"Income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households ... 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) of this section does not constitute averaging." 7 C.F.R. § 273.10 (c)(3)(i).

The Department's method of using the average of three months' worth of child support receipts to represent anticipated child support income is reasonable.

On [REDACTED] 2021, the Department incorrectly used \$126.47 to represent the Appellant's anticipated child support for [REDACTED] 2021. The Department should have used \$134.83 to represent the Appellant's anticipated child support for [REDACTED] 2021, by averaging the gross child support receipts received by the Appellant in [REDACTED] 2021, [REDACTED] 2021, and [REDACTED] 2021.

5. Title 7, Section § 273.9 (d)(1)(i) of the Code of Federal Regulations provides for a standard deduction for the 48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands.

The Appellant's household of two is eligible for the \$167.00 per month SNAP standard deduction.

For the [REDACTED] 2021 SNAP service month, the adjusted monthly gross income of the Appellant's household equaled \$1,364.63. [\$1,229.80 (\$286.00/week multiplied by 4.3 weeks/month in unemployment compensation) + \$134.83 (anticipated child support per month based on average of prior three completed months) - \$167.00 (standard deduction)]

6. Title 7, Section 273.10 (e) of the Code of Federal Regulations provides for calculating net income and benefit levels. Subsection (e)(1)(i) provides:

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...
- (B) ...
- (C) Subtract the standard deduction.
- (D) ...
- (E) ...
- (F) ...
- (G) ...
- (H) Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.
- (I) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

7 C.F.R. § 273.10 (e)(1)(i).

“Excess shelter deduction. Monthly shelter expenses in excess of 50 percent of the household's 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....” 7 C.F.R. § 273.9 (d)(6)(ii).

For the purposes of the SNAP, the Appellant’s household is subject to the shelter hardship cap, as the household does not contain elderly and/or disabled individuals.

- 7. “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)....” 7 C.F.R. § 273.9 (d)(6)(iii)(A).

For the purposes of the SNAP, the monthly shelter costs of the Appellant’s household equal \$1,486.00. [\$750.00 (rent) + \$736.00 (SUA)]

For the purposes of the SNAP, the Appellant’s shelter hardship equals \$586.00. [\$1,486.00 (monthly shelter costs) minus \$598.81_(50% of adjusted gross income), equals \$887.19, but the shelter hardship is capped at \$586.00 for households without elderly or disabled members]

8. Title 7, Section 273.10 (e)(4) of the Code of Federal Regulations addresses the Thrifty Food Plan and maximum SNAP allotments.

The Thrifty Food Plan for a qualified assistance unit of two in Connecticut with no applied income equals \$430.00 per month, or the maximum SNAP allotment for a household of two without applied income, effective October 1, 2020.

Title 7, Section 273.10 (e)(2)(ii)(A) of the Code of Federal Regulations 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; or
- (2) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting the 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

7 C.F.R. § 273.10 (e)(2)(ii)(A).

9. The Appellant's SNAP benefits for the [REDACTED] 2021 service month are computed as follows:

<u>SNAP BENEFIT CALCULATION</u>	
[REDACTED] 2021	
<u>INCOME</u>	
Unearned Income	+ \$1,364.63
Less standard deduction	- 167.00
Adjusted gross income -	\$1,197.63
<u>SHELTER COSTS</u>	
Rent	+\$750.00
Standard Utility Allowance (SUA)	+ 736.00
Total shelter costs -	\$1,486.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,486.00
Less 50% of adjusted gross income	- 598.81
	887.19
Total shelter hardship -	\$586.00*
	<i>*capped at \$586.00 for households with no elderly or disabled members</i>

ADJUSTED NET INCOME	
Adjusted gross income	\$1,197.63
Less shelter hardship	- \$586.00
Net Adjusted Income (NAI) -	\$611.63
BENEFIT CALCULATION	
Thrifty Food Plan for two <i>(maximum benefit for household without income)</i>	430.00
Less 30% of NAI <i>(rounded to nearest dollar)</i>	- 183.00
SNAP BENEFITS -	= \$247.00

The Appellant's household was eligible to receive \$247.00 (total) in SNAP benefits for the [REDACTED] 2021 service month.

On [REDACTED] 6, 2021 the Department incorrectly determined the amount of SNAP benefits the Appellant's household was eligible to receive for the [REDACTED] 2021 service month.

DISCUSSION

This hearing was to address the change in the Appellant's SNAP benefit from \$430.00 (in [REDACTED] 2021) to \$249.00 (in [REDACTED] 2021). In [REDACTED] 2021, the Department had issued the Appellant \$430.00 in SNAP benefits, which is the maximum amount of SNAP for which a household of two was eligible to receive in Connecticut, if the household has \$0.00 in counted income.

On [REDACTED] 2021, the Department incorporated a portion of the Appellant's unemployment compensation and her child support income in full into its SNAP calculation for the Appellant's new SNAP certification period beginning [REDACTED] 2021. The Department calculated that the Appellant's household was eligible for \$249.00 in SNAP benefits.

The hearing officer recalculated the SNAP benefit and arrived at \$247.00, and not \$249.00, as the correct amount of SNAP benefits for which the Appellant's household was eligible for the [REDACTED] 2021 service month.

At the [REDACTED] 2021 administrative hearing, the Appellant testified that she had stopped receiving child support on a regular basis. The Department may wish to take appropriate action based on the date that this change was reported.

DECISION

The Appellant's appeal is GRANTED, in that the hearing officer finds that the Department miscalculated the Appellant's SNAP benefits for [REDACTED] 2021.

The Appellant's household was eligible to receive a total of \$247.00, and not the \$249.00 that the Department had issued, in SNAP benefits for [REDACTED] 2021.

ORDER

1. The Department will create a \$2.00 overpayment for SNAP for [REDACTED] 2021.
2. Within 14 calendar days of this decision, or [REDACTED] 2021, compliance is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Garfield White, DSS-Hartford/Windsor
Jay Bartolomei, DSS-Hartford/Windsor
Musa Mohamud, DSS-Hartford/Windsor
Judy Williams, DSS-Hartford/Windsor
Jessica Carroll, DSS-Hartford/Windsor
Jay Bartolomei, DSS-Hartford/Windsor

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.