

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

██████████ 2021
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 179839

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") closing her benefits under the Supplemental Nutritional Assistance Program effective ██████████ 2021.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department's decision to close such 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:

██████████ Appellant
Althea Forbes-Francis, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's [REDACTED] [REDACTED] 2021 action to close the Appellant's food stamp benefits under the SNAP effective [REDACTED] [REDACTED] 2021 was correct.

FINDINGS OF FACT

1. The Appellant received benefits under the SNAP for a household of four: the Appellant and her three children, [REDACTED] [REDACTED] ("oldest daughter"), [REDACTED] [REDACTED] [REDACTED] ("son") and [REDACTED] [REDACTED] [REDACTED] ("youngest daughter"). (Hearing Record)
2. On [REDACTED] [REDACTED] 2021, the Department received the Appellant's completed online renewal document requesting continued benefits for her household of four. The Appellant reports full time employment with [REDACTED] [REDACTED] [REDACTED] [REDACTED] (the "employer") working 40 hours per week at \$18.00 per hour with a bi-weekly gross pay of \$1,440.00 with a date of hire as [REDACTED] [REDACTED] 2020. The Appellant reports receipt of child support of \$234.00 per child for her oldest daughter and son. The Appellant reports receipt of child care assistance with out of pocket dependent care expenses for the oldest daughter, son and youngest daughter. The Appellant lists rent as \$1,280.00 per month and pays for electricity and telephone. (Exhibit 1: Renewal Document and Exhibit 7: Case Notes)
3. The Department waived the phone interview under recertification. (Exhibit 7: Case Notes)
4. The Appellant is [REDACTED]-[REDACTED] ([REDACTED] years old and not disabled. (Exhibit 1: Renewal Document and Appellant's Testimony)
5. The oldest daughter is [REDACTED] ([REDACTED] years old and not disabled. (Exhibit 1: Renewal Document and Appellant's Testimony)
6. The son is [REDACTED] ([REDACTED] years old and not disabled. (Exhibit 1: Renewal Document and Appellant's Testimony)
7. The youngest daughter is [REDACTED] ([REDACTED] years old and not disabled. (Exhibit 1: Renewal Document and Appellant's Testimony)
8. The Appellant works full time for the employer earning \$18.00 per hour and working forty (40) hours per week. The [REDACTED] [REDACTED] 2021 pay check included \$500.00 one time appreciation pay issued to the Appellant by the employer. The Appellant earned the following biweekly wages: (Exhibit 2: Equifax Report and Appellant's Testimony)

Period End Date	Pay Date	Gross Wages
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,940.00
■■■■/21	■■■■/21	\$1,368.45
■■■■/21	■■■■/21	\$1,511.55
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,440.00
■■■■/21	■■■■/21	\$1,440.00

9. The Department calculated the Appellant's monthly gross earnings as \$3,633.50. Pay date ■■■■/21 \$1,440.00 + pay date ■■■■/21 \$1,940.00 = \$3,380.00 / 2 = \$1,690.00 x 2.15 = \$3,633.50 Gross Monthly Income. (Exhibit 2: Equifax Report, Exhibit 4: Federal SNAP – Income Test and Department Representative's Testimony)
10. The Appellant received an earned income deduction of \$726.70. \$3,633.50 gross earnings x 20% earned income deduction equals \$726.70. (Exhibit 4: Federal SNAP - Income Test)
11. The Appellant receives child support of \$575.36 per month through the State Child Support Program for the oldest daughter and son. (Stipulated)
12. The Appellant receives benefits under the ■■■■■■■■■■ to help pay for childcare for her oldest daughter, son, and youngest daughter where the cost of child is subsidized. The Appellant must pay \$20.43 per month for her oldest daughter for childcare, \$20.43 per month for her son for childcare, and \$185.00 per month for her youngest daughter for childcare. (Exhibit 1: Renewal Document, Exhibit 4: Federal SNAP – Income Test, and Appellant's Testimony)
13. The Appellant pays \$1,280.00 per month for rent. The Appellant pays separate electric heating and cooling costs for the apartment. (Appellant's Testimony and Exhibit 1: Renewal Document)
14. The Department determined the Appellant eligible for the standard utility allowance ("SUA") of \$736.00 under the SNAP calculation. (Exhibit 4: Federal SNAP – Income Test)
15. The Department determined the Appellant's shelter costs as \$2,016.00 and eligible for a shelter hardship deduction equaling \$472.93. (\$1,280.00 rent + \$736.00 SUA = \$2,016.00) (Exhibit 3: Federal SNAP – Income Test)

16. The Department determined the standard disregard for a household of 4 as \$181.00. (Exhibit 4: Federal SNAP – Income Test)
17. On [REDACTED] [REDACTED] 2021, the Department determined the Appellant ineligible for SNAP effective [REDACTED] [REDACTED] 2021 because the household's monthly gross income of \$4,208.86 exceeds the SNAP gross income limit equaled to 185% of the Federal Poverty Level ("FPL") or \$4,040.00 for a household of four. \$3,633.50 gross monthly wages + \$575.36 gross monthly child support = \$4,208.86 household's monthly gross income. (Exhibit 4: Federal SNAP – Income Test, Exhibit 5: Notice of Action, and Department Representative's Testimony)
18. On [REDACTED] [REDACTED] 2021, the Department issued a notice of action informing the Appellant that benefits under the SNAP would close on [REDACTED] [REDACTED] 2021. The notice listed the reasons for closure as: "The monthly gross income of your household is more than the limit for this program [and] does not meet program requirements." (Exhibit 5: Notice of Action and Department Representative's Testimony)
19. The issuance of this decision is timely under Title 7 Section 273.15(c) of the Code of Federal Regulations, which requires that a decision be issued within 60 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] [REDACTED] 2021. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statute ("Conn. Gen. Stat.") provides in part that "the Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008."
2. Title 7 of the Code of Federal Regulations ("CFR") § 273.14(a) provides as follows:

No household may participate beyond the expiration of the certification period assigned in accordance with §273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.
3. Federal regulation provides as follows:

Application for recertification. Eligibility for recertification shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. The level of benefits for recertifications shall be based on the same anticipated circumstances, except for retrospectively budgeted households which shall be recertified in accordance with §273.21(f)(2). If a household, other than a migrant or seasonal farmworker household, submits an application after the household's certification period has expired, that application shall be considered an initial application and benefits for that month shall be prorated in accordance with paragraph (a)(1)(ii) of this section. If a household's failure to timely apply for recertification was due to an error of the State agency and therefore there was a break in participation, the State agency shall follow the procedures in §273.14(e). In addition, if the household submits an application for recertification prior to the end of its certification period but is found ineligible for the first month following the end of the certification period, then the first month of any subsequent participation shall be considered an initial month. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month.

7 C.F.R. § 273.10(a)(2)

On ██████████ 2021, the Appellant correctly submitted an application for recertification under the SNAP.

4. *“General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section: A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.” 7 C.F.R. § 273.1(a)(3)

Federal regulations provide as follows:

Special household requirements—(1) Required household combinations. 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. 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)(ii)

The Department correctly determined a household of four: the Appellant, the oldest daughter, the son, and the youngest daughter.

5. Federal regulation provides as follows:

As part of the recertification process, the State agency must conduct an interview with a member of the household or its authorized representative at least once every 12 months for households certified for 12 months or less. The provisions of [§ 273.2\(e\)](#) also apply to interviews for recertification. The State agency may choose not to interview the household at interim recertifications within the 12-month period. The requirement for an interview once every 12 months may be waived in accordance with [§ 273.2\(e\)\(2\)](#).

7 C.F.R. § 273.14(b)(3)

Federal Guidance provides in pertinent part:

As authorized by section 2302 of the Families First Coronavirus Response Act (P.L. 116-117), FNS will allow State agencies to adjust: SNAP regulations at 7 C.F.R.273.2(a)(2), 273.2(e), and 273.14(b)(3) by not requiring a household to complete an interview prior to approval, provided the applicant's identity has been verified and all other mandatory verifications in 7 C.F.R.273.2(f)(1) have been completed.

Description of alternative procedures: The State will not be required to interview a household at initial application or recertification, provided that the applicant's identity has been verified and all other mandatory verifications in 7 C.F.R. 273.2(f)(1) have been completed. The State will be required to contact the household if any information on the application is questionable and cannot be verified. The State will make every attempt to verify household circumstances through data matching and mailing or uploading verifications to the State system.

FNS -GD-2020-0082 Supplemental Nutrition Assistance Program (SNAP) – Adjusting Interview Requirements Due to Novel Coronavirus (COVID-19)- Blanket Approval, March 26, 2020.

The Department correctly determined the renewal interview as not mandatory since the information on the Appellant's application for renewal was not questionable and the Department was able to verify household circumstances through data matching. However, the Department failed to recognize that the [REDACTED] [REDACTED] 2021 paystub was much higher than any pays received since her date of hire in [REDACTED]

2020. A renewal interview with the Appellant may have provided clarification as to the reason for the one time increase in pay.

6. *“Definition of income.* 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)

“Earned income shall include: All wages and salaries of an employee.” 7 C.F.R. § 273.9(b)(1)(i)

“Unearned income shall include, but not be limited to: support or alimony payments made directly to the household from nonhousehold members.” 7 C.F.R. § 273.9(b)(2)(iii)

The Department correctly included the Appellant’s employment earnings when calculating the SNAP benefits for the assistance unit.

The Department correctly included the child support income received by the Appellant when calculating the SNAP benefits for the assistance unit.

7. Federal regulation provides as follows:

Determining income—(1) Anticipating income. (i) For the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by §273.12.

7 C.F.R. § 273.10(c)(1)(i)

Federal regulation provides as follows:

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)

Federal regulation provides as follows:

Income only in month received. (i) 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 incorrectly determined the Appellant countable gross earnings as \$3,633.50 per month. The correct amount is \$3,096.00. The Department failed to exclude the \$500.00 appreciation pay included in her [REDACTED] [REDACTED] 2021 paycheck as per federal regulation 7 C.F.R. § 273.10(c)(2)(i) that provides “nonrecurring lump-sum

payments shall be counted as a resource starting in the month received and shall not be counted as income.”

The Department correctly determined the Appellant’s countable gross child support income as \$575.36 per month.

8. Federal regulation provides as follows:

Income eligibility standards. 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 established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

7 CFR § 273.9(a)

9. Federal regulation provides as follows:

The state agency at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food and Nutrition Act of 2008:

- A. Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.
- B. Subject to FNS approval, any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant, as set forth in Section 401 of P.L. 104-193, and requires participants to

have a gross monthly income at or below 200 percent of the Federal poverty level.

7 C.F.R. § 273.2(j)(2)(ii)

“Any household in which one member receives or is authorized to receive benefits according to paragraphs (j)(2)(i)(B), (j)(2)(i)(C), (j)(2)(ii)(A) and (j)(2)(ii)(B), of this section and the State agency determines that the whole household benefits.” 7 C.F.R. § 273.2(j)(2)(iii)

10. “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 Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))

11. Section 2545.05(A)(2) of the Uniform Policy Manual (“UPM”) provides that “an assistance unit is considered categorically eligible for the SNAP program if at least one member of the assistance unit receives or is authorized to receive TANF-funded services under the Help for People in Need Program”

Department policy provides for the gross income limits for SNAP Expanded Categorical Eligibility as 185% of the Federal Poverty Level. UPM P-5520.36

12. The Department of Health and Human Services lists the annual 2020 Poverty Guideline for the 48 Contiguous States and the District of Columbia as \$26,200.00 for a household of four. [Federal Register, Vol. 85, No, 12, January 17, 2020 pp 3060-3061]

Under expanded categorical eligibility, the Department correctly determined the gross income limit for a household of four is \$4,040.00. [$\$26,200.00 / 12 \text{ months} = \$2,183.333 \times 185\% = \$4,039.166667$]

13. “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).” 7 C.F.R. § 273.10(e)(1)(i)(A)

The Department incorrectly determined the gross household income as \$4,208.86. The correct gross household income equals \$3,671.36. \$3,096.00 gross earnings + \$575.36 gross child support/unearned income = \$3,671.36 gross household income.

On [REDACTED] [REDACTED] 2021, the Department incorrectly determined the Appellant's household income exceeds the SNAP income limit under expanded categorical eligibility and incorrectly closed the Appellant's benefits under the SNAP effective [REDACTED] [REDACTED] 2021.

DISCUSSION

Although the Department may have not been aware that the [REDACTED] [REDACTED] 2021 paycheck included a \$500.00 appreciation pay which should have been excluded, the Equifax documentation validates the Appellant's reported income of 40 hours per week at \$18.00 per hour earning \$1,440.00 biweekly with minimal overtime wages listed. In addition, under federal regulation, the Department has the ability to utilize a longer period of time other than a 4 week or 30 day period when calculating a recipient's monthly gross earnings. "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."

Due to the pandemic, the Department waived the renewal interview with the Appellant as the Department obtained verification through data matching and uploading verification, specifically the use of the Equifax payroll verification and the child support CCSES Disbursement Search. However, if any information provided at renewal is questionable, the Department may contact the household. This may have been an opportunity for the Department to contact the Appellant to determine the reason for the increase in the [REDACTED] [REDACTED] 2021 payroll check rather than closing the Appellant's benefits citing the household monthly income is more than the limit for this program and waiting for contact from the Appellant to inform the Department the reason for the increase in wages. On [REDACTED] [REDACTED] 2021, the Appellant contacted the Department in the form of a hearing request.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department must reopen the Appellant's benefits under the SNAP effective [REDACTED] [REDACTED] 2021 and continue to process the Appellant's [REDACTED] [REDACTED] 2021 application for recertification by excluding the \$500.00 appreciation pay received on [REDACTED] [REDACTED] 2021.

2. The Department must issue any benefits due the Appellant effective [REDACTED] 2021.
3. Compliance is due 14 days from the date of this decision.

Lisa Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Patricia Ostroski, DSS RO #52
Althea Forbes-Francis, DSS RO #52

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.