

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 # 180208

NOTICE OF DECISION
AFTER RECONSIDERATION
PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant"), a Notice of Action ("NOA") denying his Supplemental Nutrition Assistance Program ("SNAP") benefits.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the denial of the 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 participated in the hearing:

██████████ Appellant
Rose Montinat, Department's Representative
Carla Hardy, Hearing Officer

Due to the COVID-19 Pandemic, the hearing was held as a telephonic hearing.

On [REDACTED] 2021, the hearing officer issued a decision that denied the Appellant's appeal of the denial for SNAP benefits.

On [REDACTED] 2021, the Appellant submitted his request for reconsideration of the decision.

On [REDACTED] 2021, in accordance with Connecticut General Statutes § 4-181a(a)(1), OLCRAH granted the Appellant's request for reconsideration of the decision dated [REDACTED] [REDACTED] 2021 to correct a finding of fact.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's SNAP benefit.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department received the Appellant's application requesting SNAP assistance. (Exhibit 1: Application, [REDACTED] 1; Hearing Summary)
2. The Appellant is the only person in his household. He is 38 year old [REDACTED] 83). He is not disabled. His rent is \$700.00 monthly and he pays separately for cooling. (Exhibit 1; Appellant's Testimony)
3. On [REDACTED] 2021, the Department reviewed the Appellant's application. The Appellant reported that he works at [REDACTED] earning \$225.00 weekly and \$200.00 weekly at [REDACTED]. He also reported that he is a self-employed delivery driver. The Appellant did not send proof of his income. The Department was unable to reach the Appellant to complete the telephone interview. The Department notified the Appellant that his application would be denied if he did not complete his interview and provide the required proofs by [REDACTED] 2021 (Exhibit 1; Exhibit 10: Case Notes; Hearing Summary)
4. The Appellant mistakenly reported on his application that his job as a self-employed delivery driver was in addition to his jobs at [REDACTED] and [REDACTED] (Exhibit 10; Appellant's Testimony)
5. On [REDACTED] 2021, the Department conducted the Appellant's telephone interview. The Appellant reported that he earns \$200.00 weekly from [REDACTED] and \$225.00 weekly from [REDACTED]. The Department requested that the Appellant submit proof of his income for the past three months. (Hearing Summary)

6. On [REDACTED] 2021, the Appellant submitted the following screen shots of his weekly pay from [REDACTED]

Pay period	Amount
[REDACTED] 21 [REDACTED] 1	\$328.37
[REDACTED] 21 [REDACTED]/21	\$340.56
[REDACTED]/21 – [REDACTED] 21	\$392.12
[REDACTED]/21 [REDACTED] 21	\$522.62
Total	\$1,583.67
[REDACTED] 21 – [REDACTED]/21	\$497.87
[REDACTED] 21 – [REDACTED]/21	\$506.96
[REDACTED]/21 [REDACTED] 21	\$310.94
[REDACTED]/21 – [REDACTED] 21	\$413.36
Total	\$1,729.13
[REDACTED]/21 – [REDACTED]/21	\$432.06
[REDACTED] 21 – [REDACTED]/21	\$342.86
[REDACTED]/21 – [REDACTED] 21	\$428.15
[REDACTED]/21 – [REDACTED] 21	\$387.89
Total	\$1,590.96
[REDACTED]/21 – [REDACTED] 1	\$209.69
[REDACTED] 21 – [REDACTED] 1	\$79.40
[REDACTED]/21 – [REDACTED] 21	\$64.46
Total	\$353.55

(Exhibit 4; [REDACTED] and [REDACTED] Wages; Hearing Summary)

7. On [REDACTED] 2021, the Appellant provided one weekly screen shot of his earnings received from [REDACTED] for the period [REDACTED] 2021 through [REDACTED] 2021 which equaled \$121.11. (Exhibit 4; Exhibit 10)
8. On [REDACTED] 2021, the Appellant provided a written statement reporting that he started working at Grub Hub and the end of [REDACTED] 2021 and did not have any pay in [REDACTED] or [REDACTED] (Exhibit 5: Appellant's Written Statement)
9. The Appellant submitted the following screen shots of his weekly pay from Grub Hub:

Pay Period	Amount
[REDACTED]/21 – [REDACTED]/21	\$121.11
[REDACTED] 21 – [REDACTED]/21	\$349.40
[REDACTED]/21 – [REDACTED] 21	\$335.91

(Exhibit 4)

10. The Department calculated that the Appellant earned \$121.11 weekly from [REDACTED] (Department's Testimony; Hearing Summary)

11. On ██████ 2021, the Department denied the SNAP effective ██████ 2021 for exceeding the gross monthly limit for the SNAP program. (Exhibit 3: Notice of Action, ██████ 21)
12. The issuance of this decision is timely under the provisions of Connecticut General Statutes § 4-181a(a)(3) that provides if the agency decides to reconsider a final decision, pursuant to subdivision (1) or (2) of this subsection, the agency shall proceed in a reasonable time to conduct such additional proceedings as may be necessary to render a decision modifying, affirming or reversing the final decision, provided such decision made after reconsideration shall be rendered not later than ninety days following the date on which the agency decides to reconsider the final decision. In the present case, the Appellant was granted reconsideration on ██████ 2021, with this decision due not later than ██████ 2021. (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. Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.9(a) provides that 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 as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

UPM § 5520.40 provide that income eligibility for the SNAP is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for Temporary Family Assistance ("TFA") (including diversion assistance), Aid to Families with Dependent Children ("AFDC"), Aid to the Aged, Blind or Disabled ("AABD"), General Assistance ("GA"), State Administered General Assistance ("SAGA"), refugee assistance or Supplemental Security Income ("SSI").

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
 - a. include one or more persons who are elderly or disabled; or
 - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:

- a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.
 - b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.
- B. Applied Income Eligibility Test
- 1. Income eligibility is determined on the basis of the assistance unit's total monthly applied income:
 - a. including those units which are not subjected to the Gross Income Eligibility Test; and
 - b. excluding those units which are considered categorically eligible for FS benefits.
 - 2. The unit's total monthly applied income is compared to an amount equivalent to the Food Stamp Applied Income Limit for the respective unit size:
 - a. If the total applied income exceeds the FSAIL, the unit is not eligible for Food Stamps benefits;
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.
- C. Categorical Eligibility Test

Those assistance units which qualify as categorically eligible are not subjected to gross or applied income eligibility tests.

The Department correctly determined that the Appellant must meet the gross income test.

- 3. Title 7 C.F.R. § 273.9(b)(1)(i) provides that earned income shall include all wages and salaries of an employee.

“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)).

Uniform Policy Manual (“UPM”) § 5005(A) provides that the Department counts the assistance unit’s available income, and that income is considered available if it is:

- 1. received directly by the assistance unit,
- 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
- 3. deemed by the Department to benefit the assistance unit.

The Department correctly included the Appellant’s earnings when it calculated eligibility for the SNAP benefit.

- 4. Title 7 C.F.R. § 273.10(c)(1)(i) provides that 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.

5. Title 7 C.F.R. § 273.10(c)(1)(ii) provides in part that 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.
6. Title 7 C.F.R. § 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.

UPM § 5025.05(b) provides:

1. If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.
2. 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;
 - 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;
 - c. If there has been a recent change or if there is an anticipated future change, the amount expected to represent future income is the representative weekly amount;
 - d. If income is received on other than a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered.

The Department incorrectly calculated that the Appellant's monthly earned income from [REDACTED] equals \$1,757.20.

The Appellant's monthly earned income from [REDACTED] equals \$506.75 [(\$209.69 + \$79.40 + 64.46 = \$353.55). (\$353.55/ 3 weeks = \$117.85). (\$117.85 x 4.3 = \$506.75).

The Department incorrectly calculated that the Appellant's monthly earned income from [REDACTED] equals \$520.77 (\$121.11 x 4.3 = \$520.77).

The Appellant's monthly income from [REDACTED] equals \$1,155.84 [(\$121.11 + \$349.40 + \$335.91)/3 x 4.3 = \$1,155.84].

The Appellant's total monthly gross income equals \$1,662.59 (\$506.75 + \$1,155.84 = \$1,662.59).

7. 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 \$167.00 per month; {effective October 1, 2020}
 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")
- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

The Appellant's earned income deduction equals \$322.52 ($\$1,662.59 \times .20 = \322.52)

The Appellant's adjusted gross income equals \$1,163.07 [$\$1,662.59 - 332.52$ (Earned Income Deduction) - $\$167.00$ (Standard Deduction) = $\$1,163.07$].

8. Title 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;

9. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances.

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 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 determined that the Standard Utility Allowance equals \$736.00 effective October 1, 2020.

The Department correctly determined the Appellant's shelter costs equals \$1,436.00 (\$700.00 Rent + \$736.00 Standard Utility Allowance = \$1,436.00) per month.

10. Title 7 C.F.R. § 271.2 provides for the maximum shelter deduction.

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 is revised annually effective October 1. (Maximum shelter hardship effective October 1, 2020 is \$586.00). The Appellant is elderly and disabled. There is no cap on the shelter hardship.

The Department correctly determined that the Appellant's shelter hardship is \$586.00.

11. Title 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

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.

12. Effective [REDACTED] 2021, the Appellant's SNAP benefits are computed as follows:

SNAP BENEFIT CALCULATION

<u>INCOME</u>	
Earned Income	\$1,662.59
Less 20 percent	-\$332.52
= Adjusted earned income	\$1,330.07
+ Unearned income	0.00
= Total income	<u>\$1,330.07</u>
- Standard deduction	-\$167.00
- Medical expenses	\$0
-Dependent care expenses	0.00
=Adjusted gross income	\$1,163.07
<u>SHELTER COSTS</u>	
Rent	\$700.00
+ SUA	<u>\$736.00</u>
Total shelter costs	\$1,436.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,436.00
Less 50% of adjusted gross income	<u>-\$581.53</u>
= Total shelter hardship (max \$586 if not disabled or elderly)	\$586.00
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1,163.07
Less shelter hardship	<u>-\$586.00</u>
Net Adjusted Income (NAI)	\$577.07
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for one person	\$234.00
Less 30% of NAI (rounded up to nearest whole dollar)	<u>-\$174.00</u>
SNAP award	\$60.00

13. On ██████████ 2021, the Appellant was eligible for \$60.00 in SNAP benefits.

14. On ██████████, the Department was incorrect when it denied the Appellant's SNAP application.

DECISION

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

ORDER

1. The Department shall rescreen the SNAP application effective the [REDACTED] 2021, the date of the application.
2. The Department shall account for the income changes from [REDACTED] and [REDACTED] and recalculate the Appellant's earnings.
3. Compliance with this order shall be submitted to the undersigned no later than [REDACTED] 2021.



Carla Hardy
Hearing Officer

Pc: Musa Mohamud, Judy Williams, Jessica Carroll, Jay Bartolomei, Rose Montinat,
Department of Social Services, Greater Hartford 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 060105-3725.

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 06105-3725. 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.