

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 No. 180663

**NOTICE OF DECISION**

**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 application for benefits under the Supplemental Nutrition Assistance Program (“SNAP”) effective ██████████ 2021.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department’s decision to deny 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 called in for the hearing:

██████████ Appellant  
Christopher Filek, 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 deny the Appellant's [REDACTED] [REDACTED] 2021 application for benefits under the SNAP was correct.

## **FINDINGS OF FACT**

1. On [REDACTED] [REDACTED] 2021, the Appellant filed an application for benefits under the SNAP requesting SNAP assistance for himself and his Spouse, [REDACTED] [REDACTED] ("Spouse"). (Exhibit 3: Notice of Action, Exhibit 4: Case Notes, and Appellant's Testimony)
2. The Appellant is a United States Citizen. (Appellant's Testimony)
3. In 2003, the Spouse received legal permanent residency ("LPR") status. The Spouse is sponsored by [REDACTED] [REDACTED] her son ("sponsor"). (Appellant's Testimony)
4. The Appellant and his Spouse do not receive financial support from the sponsor. (Appellant's Testimony)
5. The Department denied the Appellant's [REDACTED] [REDACTED] 2021 application for SNAP which the Appellant contested. (Hearing Record)
6. On [REDACTED] [REDACTED] 2021, the Department reopened the Appellant's [REDACTED] [REDACTED] 2021 application for benefits under the SNAP after the Appellant successfully argued his appeal of the denial. (Hearing Record)
7. On [REDACTED] [REDACTED] 2021, the Department determined the Spouse as indigent due to the lack of income and resources. (Hearing Record)
8. On [REDACTED] [REDACTED] 2021, the Department issued the Appellant a W1348 Proofs We Need form requesting proof of indigence from the Spouse, specifically "proof of why we should not count your sponsor's income and assets." The Department listed the due date for the information as [REDACTED] [REDACTED] 2021. The Department enclosed form W-724 Exception to Deeming for Needy Non-Citizens ("form W-724") requesting consent from the Spouse to notify the Attorney General ("AG") of the indigence determination and submit the names of the Spouse and sponsor to the AG's office. Form W-724 states in part, "By law DSS has to count the income and assets of sponsors of non-citizens when we look at eligibility for our programs. There are some exceptions to this rule. ... I understand that DSS does not have to count the income or assets of my sponsor. If DSS does not count the income or assets of my sponsor, the

- department will send my name and address and my sponsor's name and address to USCIS for all federal programs." Form W-724 requires the non-citizen to choose whether the Department should count the sponsor's income and assets by indicating their choice on the form and then signing the form. (Exhibit 1: W-1348 Proofs We Need, Exhibit 2: Form W-724, and Department Representative's Testimony)
9. On [REDACTED] [REDACTED] 2021, the Department received Form W-724 signed by the Appellant. The Appellant checked the box beside the following statement: "I do not want DSS to count the income or assets of my sponsor. I understand that my name and address and the name and address of my sponsor will be sent to the USCIS." The Spouse did not sign the form. (Exhibit 2: Form W-724 and Exhibit 4: Case Notes)
  10. On [REDACTED] [REDACTED] 2021, the Department determined the Appellant ineligible for benefits under the SNAP because the Department did not receive a correctly completed form W-724 from the Appellant or Spouse by the [REDACTED] [REDACTED] 2021 due date. (Exhibit 2: Form W-724 and Exhibit 4: Case Notes)
  11. On [REDACTED] [REDACTED] 2021, the Department issued the Appellant a notice of action. The notice stated the Department denied the Appellant's application for benefits under the SNAP effective [REDACTED] [REDACTED] 2021 for the reasons: "you did not return all of the required proofs by the date we asked [and] does not meet program requirements." (Exhibit 3: Notice of Action)
  12. The Department took no further action. (Hearing Record)
  13. 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 not due until [REDACTED] [REDACTED] 2021, and therefore timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2(7) of the Connecticut General Statute provides as follows: "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 Section 273.2(a)(2) of the Code of Federal Regulations ("C.F.R.") provides as follows:

*Application processing.* The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency must act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. States must meet application processing timelines, regardless of whether a State agency implements a photo EBT card policy. The State agency must make expedited service available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

“Households must file SNAP applications by submitting the forms to the SNAP office either in person, through an authorized representative, by mail, by completing an on-line electronic application, or, if available, by fax, telephone, or other electronic transmission.” 7 C.F.R. § 273.2(c)(1)(i)

**The Department correctly determined the Appellant completed an application for assistance under the SNAP.**

3. Federal regulation provides as follows:

*Recording the filing date.* The date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day. For online applications, the date of application is the date the application is submitted, or the next business day if it is submitted after business hours. For telephonic applications, the date of application is the date on which the household member provides verbal assent.

7 C.F.R. § 273.2(c)(1)(iv)

**The Department correctly determined the application date as ■■■ ■■■ 2021.**

4. Federal regulation provides as follows:

**Household members meeting citizenship or alien status requirements.**

“No person is eligible to participate in the Program unless that person is: A U.S. citizen.” 7 C.F.R. § 273.4(a)(1)

“No person is eligible to participate in the Program unless that person is: An individual who is both a qualified alien as defined in paragraph (a)(6)(i) of this section and an eligible alien as defined in paragraph (a)(6)(ii) or (a)(6)(iii) of this section.” 7 C.F.R. § 273.4(a)(6)

“A qualified alien is: an alien who is lawfully admitted for permanent residence under the INA.” 7 C.F.R. § 273.4(a)(6)(i)

Federal regulation provides as follows:

The following qualified aliens, as defined in [paragraph \(a\)\(6\)\(i\)](#) of this section, must be in a qualified status for 5 years before being eligible to receive SNAP benefits. The 5 years in qualified status may be either consecutive or nonconsecutive. Temporary absences of less than 6 months from the United States with no intention of abandoning U.S. residency do not terminate or interrupt the individual's period of U.S. residency. If the resident is absent for more than 6 months, the agency shall presume that U.S. residency was interrupted unless the alien presents evidence of his or her intent to resume U.S. residency. In determining whether an alien with an interrupted period of U.S. residency has resided in the United States for 5 years, the agency shall consider all months of residency in the United States, including any months of residency before the interruption: An alien age 18 or older lawfully admitted for permanent residence under the INA.

7 C.F.R. § 273.4(a)(6)(ii)(A)

**The Department correctly determined the Appellant meets citizenship requirements under the SNAP because the Appellant is a U.S. citizen.**

**The Department correctly determined the Spouse meets alien status requirements under the SNAP because she has been lawfully admitted to the U.S. with LPR status for more than five years.**

5. Federal regulation provides as follows:

***Notice of Required Verification.*** The State agency shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process. The notice shall also inform the household of the State agency's responsibility to assist the household in obtaining required verification provided the household is cooperating with the State agency as specified in [\(d\)\(1\)](#) of this section. The notice shall be written in clear and simple language and shall meet the bilingual requirements designated in [§ 272.4\(b\) of this chapter](#). At a

minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.

7 C.F.R. § 273.2(c)(5)

6. Federal regulation provides as follows:

**Exempt aliens.** The provisions of paragraph (c)(2) of this section do not apply to: An indigent alien that the State agency has determined is unable to obtain food and shelter taking into account the alien's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s). Prior to determining whether an alien is indigent, the State agency must explain the purpose of the determination to the alien and/or household representative and provide the alien and/or household representative the opportunity to refuse the determination. If the household refuses the determination, the State agency will not complete the determination and will deem the sponsor's income and resources to the alien's household in accordance with [paragraph \(c\)\(2\)](#) of this section. The State agency must inform the sponsored alien of the consequences of refusing this determination. For purposes of this [paragraph \(c\)\(3\)\(iv\)](#), the phrase "is unable to obtain food and shelter" means that the sum of the eligible sponsored alien's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance the sponsor and others provide, does not exceed 130 percent of the poverty income guideline for the household's size. The State agency must determine the amount of income and other assistance provided in the month of application. If the alien is indigent, the only amount that the State agency must deem to such an alien will be the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date. Each indigence determination is renewable for additional 12-month periods. The State agency must notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved. State agencies may develop an administrative process under which information about the sponsored alien is not shared with the Attorney General or the sponsor without the sponsored alien's consent. The State agency must inform the sponsored alien of the consequences of failure to provide such consent. If the sponsored alien fails to provide consent, he or she shall be ineligible pursuant to [paragraph \(c\)\(5\)](#) of this section, and the State agency shall determine the eligibility and benefit level of the remaining household members in accordance with [§ 273.11\(c\)](#).

7 C.F.R. § 273.4(c)(3)(iv)

On [REDACTED] [REDACTED] 2021, the Department correctly complied with the notice requirements under federal regulations by issuing the Appellant a W-1348 Proofs We Need form requesting justification from the Spouse for the indigence determination made by the Department to determine eligibility under the SNAP and allowed a minimum of ten days to submit the verification. The Department enclosed form W-724.

On [REDACTED] [REDACTED] 2021, the Department correctly complied with federal regulations and issued form W-724 providing the household the opportunity to refuse the determination of indigence made by the Department and/or the opportunity to consent to the determination of indigence allowing the Department to notify the AG's office of such determination.

The Department correctly determined the Spouse, the sponsored alien, failed to provide consent because the Appellant, the U.S. citizen, signed for W-724 form. The Appellant signed the form consenting to "I do not want DSS to count the income or assets of my sponsor. I understand that my name and address and the name and address of my sponsor will be sent to the USCIS." The Appellant is not a sponsored non-citizen.

On [REDACTED] [REDACTED] 2021, the Department incorrectly denied the Appellant's application for SNAP. As per federal regulations, failure to provide consent to the Department to release the Spouse's name and her sponsor's name to the AG's office results in ineligibility of the Spouse, the sponsored alien, not the entire household. Federal regulations state "the State agency shall determine the eligibility and benefit level of the remaining household members in accordance with § 273.11(c)."

On [REDACTED] [REDACTED] 2021, the Department incorrectly denied the Appellant's application for benefits under the SNAP effective [REDACTED] [REDACTED] 2021 for the reasons "you did not return all of the required proofs by the date we asked [and] does not meet program requirements."

### DECISION

The Appellant's appeal is granted.

**ORDER**

1. The Department must reopen the Appellant's application for benefits under the SNAP effective ■■■ ■■■ 2021 and determine eligibility excluding the Spouse until the Department receives a correctly signed form W-724 requesting the Department to determine eligibility by counting the sponsor's income or consent to release the Spouse and sponsor's names to the AG.
2. The Department must issue the Appellant a new form W-724 to allow the Spouse an opportunity to consent to the determination of indigence and release her name and the sponsor's name to the AG or to request the Department count the income and assets of her sponsor. The Department must allow a minimum of 10-days for the Appellant to submit the requested information before deciding the Spouse's eligibility under the SNAP.
3. Compliance is due within 14-days of the date of this decision.

Lisa A. Nyren

Lisa A. Nyren  
Fair Hearing Officer

CC: Brian Sexton, DSS RO 50  
Christopher Filek, DSS RO 50



### **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.