

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

Case ID ██████████
Client ID ██████████
Request # 181467

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") closing his 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 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 called in for the hearing:

████████████████████, Appellant
Christopher Filek, Department Representative
Ajmal Dost, Interpreter, Interpreter and Translators, Inc.
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant receives benefits under the SNAP for a family of four: himself, his spouse, and their two children. (Hearing Record)
2. The Department certified the Appellant's SNAP benefits for a family of four for the twelve-month period beginning [REDACTED] 2020 and ending on [REDACTED] 2021. (Department Representative's Testimony)
3. On [REDACTED] 2021, the Department received the Appellant's renewal document requesting continued assistance under the SNAP for his family of four. The Department received the following documents with the Appellant's renewal document: current lease, medical insurance identification card, social security card, photo identification, passport, utility bill, paystub, current bank statement, housing receipt, and cover sheet. (Department Representative's Testimony, Exhibit 3: Case Notes, and Exhibit 4: Document Search)
4. On [REDACTED] 2021, the Department attempted to complete a renewal interview with the Appellant by telephoning the Appellant. The Department failed to reach the Appellant. (Exhibit 3: Case Notes)
5. The Appellant is employed with [REDACTED] (the "employer") and a driver with [REDACTED] (the "delivery-service"). (Hearing Record)
6. On [REDACTED] 2021, the Department requested proof of gross earnings and issued the Appellant form W-1348 Proofs We Need ("W-1348"). The Department lists acceptable proofs as: "most recent four weeks paystubs, letter signed by employer showing most recent four weeks of gross earnings and hours worked. DSS form W-35." On the W-1348 the Department added: "Please provide proof of the last month of income from [the delivery-service]." The Department lists the due date for the information as [REDACTED], 2021. ((Exhibit 1: Proofs We Need and Exhibit 3: Case Notes)
7. On [REDACTED], 2021, the Department received a bank statement from the Appellant which listed deposits made by the delivery-service into the Appellant's bank account. (Exhibit 3: Case Notes, Exhibit 4: Document Search, and Department Representative's Testimony)

8. The delivery-service does not provide paystubs or proof of wages to their drivers. The Appellant's wages from the delivery-service are direct deposited into his bank account. (Appellant's Testimony)
9. The Appellant did not complete a renewal interview. (Department Representative's Testimony)
10. On [REDACTED] 2021, the Department closed the Appellant's benefits under the SNAP for the reasons: "renewal process not completed, no household members are eligible for this program, [and] does not meet program requirements" and issued the Appellant a Notice of Action informing him of the closure of his benefits. (Exhibit 2: Notice of Action)
11. On [REDACTED] 2021, the Department reviewed the Appellant's SNAP benefits and determined the [REDACTED] 2021 bank statement does not meet verification requirements to determine continued eligibility under the SNAP because three months of income from the delivery-service is needed to obtain a monthly average. (Exhibit 3: Case Notes and Department Representative's Testimony)
12. The Department did not inform the Appellant at any time during the recertification process three months of income from the delivery-service is required to complete the recertification process. (Department Representative's Testimony)
13. The Department did not inform the Appellant at any time during the recertification process that a renewal interview is needed to complete the recertification process. (Department Representative's Testimony)
14. 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] 2021. Therefore, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides 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. Section 273.14(a) of the Code of Federal Regulations ("CFR") 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:

The State agency must develop an application to be used by households when applying for recertification. It may be the same as the initial application, a simplified version, a monthly reporting form, or other method such as annotating changes on the initial application form. A new household signature and date is required at the time of application for recertification. The provisions of [§ 273.2\(c\)\(7\)](#) regarding acceptable signatures on applications also apply to applications used at recertification. The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period, except for delayed applications as specified in [paragraph \(e\)\(3\)](#) of this section. The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The State agency must notify the applicant of information which is specified in [§ 273.2\(b\)\(2\)](#), and provide the household with a notice of required verification as specified in [§ 273.2\(c\)\(5\)](#).

7 CFR 273.14(b)(2)

The Department correctly determined the Appellant filed an application for recertification of his benefits under the SNAP on [REDACTED] 2021.

4. 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 CFR 273.14(b)(3)

Federal regulation provides as follows:

The State agency may use a telephone interview instead of the face-to-face interview required in [paragraph \(e\)\(1\)](#) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone. The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

7 CFR 273.2(e)(2)

Federal regulation provides as follows:

Like households participating in face-to-face interviews, households interviewed by any means other than the face-to-face interview are not exempt from verification requirements. However, the State agency may use special procedures to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

7 CFR 273.2(e)(2)(ii)

Federal regulation provides as follows:

State agencies shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires. If a household misses its scheduled interview, the State agency shall send the household a Notice of Missed Interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the State agency shall schedule a second interview.

7 CFR 273.14(b)(3)(iii)

Although the Department attempted to contact the Appellant on [REDACTED], 2021 via telephone to complete a recertification interview, the Department failed to inform the Appellant a recertification interview was needed. Additionally, the Department failed to issue a notice of missed interview allowing the Appellant an opportunity to request a second interview.

5. Federal regulation provides as follows:

Information provided by the household shall be verified in accordance with [§ 273.2\(f\)\(8\)\(i\)](#). The State agency shall provide the household a notice of required verification as provided in [§ 273.2\(c\)\(5\)](#) and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 days to provide required verification information. Any household whose eligibility is not determined by the end of its current certification period due to the time period allowed for submitting any missing verification shall receive an opportunity to participate, if eligible, within 5 working days after the household submits the missing verification and benefits cannot be prorated.

7 CFR 273.14(b)(4)

Federal regulation provides as follows:

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 CFR 273.2(c)(5)

Federal regulation provides as follows:

At recertification the State agency shall verify a change in income if the source has changed or the amount has changed by more than \$50. Previously unreported medical expenses, actual utility expenses and total

recurring medical expenses which have changed by more than \$25 shall also be verified at recertification. The State agency shall not verify income if the source has not changed and if the amount is unchanged or has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify total medical expenses, or actual utility expenses claimed by households which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. For households eligible for the child support deduction or exclusion, the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. A household would not have to provide any additional verification unless they disagreed with the information provided by the State CSE agency. State agencies that choose to use information provided by their State CSE agency in accordance with this [paragraph \(f\)\(8\)\(i\)\(A\)](#) must specify in their State plan of operation that they have selected this option. For all other households eligible for the child support deduction or exclusion, the State agency shall require the household to verify any changes in the legal obligation to pay child support, the obligated amount, and the amount of legally obligated child support a household member pays to a nonhousehold member. The State agency shall verify reportedly unchanged child support information only if the information is incomplete, inaccurate, inconsistent or outdated.

7 CFR 273.2(f)(8)(i)(A)

Although the Department correctly requested proof of delivery-service wages from the Appellant since there was a change in household income with the report of a second job by the Appellant with the delivery-service at recertification, the Department failed to request three months of wages for averaging instead requesting “proof of the last month of income from the [delivery-service].” The Department failed to inform the Appellant that due to the nature of his employment, three months of wages would provide the Department with a more accurate estimate of monthly gross income for the household.

The Department incorrectly determined the Appellant failed to provide verification of delivery-service wages. On [REDACTED] 2021, the Department received a current bank statement from the Appellant documenting gross income received from the delivery-service by the [REDACTED] 2021 due date set by the Department. The Appellant

provided the verification which was requested by the Department timely.

6. Federal regulation provides as follows:

If an eligible household files an application before the end of the certification period but the recertification process cannot be completed within 30 days after the date of application because of State agency fault, the State agency must continue to process the case and provide a full month's allotment for the first month of the new certification period. The State agency shall determine cause for any delay in processing a recertification application in accordance with the provisions of [§ 273.3\(h\)\(1\)](#).

7 CFR 273.14(e)(1)

Because no household may participate beyond the expiration of the certification period assigned without a determination of eligibility for a new period, the Department correctly closed the Appellant's SNAP benefits effective September 1, 2021 for the reason "renewal process not completed." However, the Department failed to comply with the SNAP recertification process as established in federal regulations and failed to continue to process the Appellant's application for recertification instead terminating benefits for the reasons "no household members are eligible for this program and does not meet program requirements." The renewal process remained incomplete because the Department failed to request the income verification necessary to determine eligibility and failed to inform the Appellant a recertification interview was needed. Due to the Department's failure, it is the Department's responsibility to continue to process the application for recertification allowing the Appellant an opportunity to participate in the month following the end of its current certification period or by [REDACTED] 2021.

On [REDACTED], 2021, the Department incorrectly issued the Appellant a notice action discontinuing SNAP benefits for the reasons: no household members are eligible for the program and does not meet program requirements.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department must reopen the Appellant's application for continued benefits under the SNAP effective [REDACTED] 2021 and continue to process eligibility under the recertification process as outlined by federal regulations.
2. If additional documentation is needed or the renewal interview remains incomplete, the Department must issue the Appellant a request for interview and request for verification allowing the Appellant a minimum of 10-days to submit the necessary information to determine eligibility.
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.