

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

██████████ 2022  
Signature Confirmation

Client ID # ██████████  
Request # ██████████

**NOTICE OF RECONSIDERED DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2021, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) discontinuing his benefits from the Supplemental Nutrition Assistance Program (“SNAP”) effective ██████████ 2021 because his monthly gross income was more than the limit for the program

On ██████████ 2021, the Appellant requested an administrative hearing to appeal the Department’s discontinuance of his SNAP benefits.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2021. At the Appellant’s request, the hearing was scheduled to be held telephonically.

On ██████████ 2021, in accordance with sections 17b-60, 17-61 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  
Javier Rivera, Department’s Hearing Liaison  
James Hinckley, Hearing Officer

On ██████████ 2021, the undersigned issued a hearing decision denying the Appellant’s appeal.

On [REDACTED] 2021, the Appellant filed a request for reconsideration of the hearing decision and submitted new exhibits.

On [REDACTED] 2021, the Director of OLCRAH granted the request for reconsideration for the purpose of reviewing and clarifying the Appellant's child's potential disability status and assessment as to any potential impact on eligibility for the SNAP program in accordance with the pertinent provisions of the Code of Federal Regulation.

### **STATEMENT OF THE ISSUE**

1. Whether the Department was correct when it discontinued the Appellant's SNAP benefits due to his gross income exceeding the limit for the program.

### **FINDINGS OF FACT**

1. On [REDACTED] 2021, the Appellant submitted a renewal form to recertify his SNAP eligibility. (Ex. 3: W-1ER renewal form, Hearing record)
2. On [REDACTED] 2021, the Department conducted a telephone interview with the Appellant and processed his SNAP renewal. (Ex. 1: Case Notes)
3. As of [REDACTED] 2021, the Appellant's SNAP household size changed from three to two, because one of his two children became a full-time student living at college out of state. (Hearing Record)
4. The Appellant's 17-year-old son that still lives with him (his "Son") has autism and is incapable of working. (Appellant's testimony)
5. The [REDACTED] Public Schools' Planning and Placement Team ("PPT") determined that, as of [REDACTED] 2018, the Appellant's Son had a primary disability of autism. (Reconsideration Ex. A: PPT Cover Page)
6. The [REDACTED] Public Schools' [REDACTED] 2018 PPT evaluation listed the Appellant's Son's Parent/Guardian as "[REDACTED] (Mother)." (Reconsideration Ex. A)
7. A Final Narrative prepared by the [REDACTED] School for the 2019-2020 school year for the Appellant's Son noted, among other things, that the child enjoyed reading material at a grade 2 level, and that "(b)ehaviors targeted for reduction throughout this 2019-2020 school year included aggression, object abuse, outbursts and scripting." (Reconsideration Ex. B: [REDACTED] School Final Narrative)
8. The Appellant reported on his renewal form that his Son had no income. (Ex. 3)

9. The Appellant reported on his renewal form that he paid child support to his Son's mother, [REDACTED]. (Ex. 3)
10. As of [REDACTED] 2021, the Appellant was employed at [REDACTED]. (Hearing Record)
11. As of [REDACTED] 2021, the Appellant was obligated to pay \$407.00 weekly in child support. (hearing record)
12. As of [REDACTED] 2021, the Appellant had no obligation for rent. (Hearing Record)
13. The Appellant's wage records were available to the Department through the employment verification service, *CCC Verify*. (Ex. 4: *CCC Verify* employment verification report)
14. For the four most recent weeks preceding [REDACTED] 2021, the Appellant's gross wages from [REDACTED] were as follows: [REDACTED]/21 - \$781.83, [REDACTED]/21 - \$632.40, [REDACTED]/21 - \$1147.68, [REDACTED]/21 - 783.98. The average of the four pays is \$836.47. (Ex. 2)
15. For the additional nine most recent weeks preceding [REDACTED] 2021, the Appellant's gross wages from [REDACTED] were as follows: [REDACTED]/21 - \$776.97, [REDACTED]/21 - \$764.85, [REDACTED]/21 - \$630.84, [REDACTED]/21 - \$790.67, [REDACTED]/21 - \$793.24, [REDACTED]/21 - \$915.18, [REDACTED]/21 - \$748.39, [REDACTED]/21 - \$775.67, [REDACTED]/21 - \$739.27. (Ex. 2)
16. The \$1,147.68 pay from [REDACTED]/21 was an outlier; no other pay during the thirteen-week period listed in Facts #8 and #9 exceeded \$1,000.00. (Facts #8, #9)
17. The Appellant's higher than usual pay on [REDACTED]/21 was because he received a wage increase retroactively and received all the retroactive pay in one check; it was a one-time occurrence. (Appellant's testimony)
18. For the four-week period immediately preceding [REDACTED] 2021, excluding the pay from [REDACTED]/21 which was unrepresentative, the average of the three remaining pays was \$732.73. (Ex. 4)
19. For the thirteen-week period immediately preceding [REDACTED] 2021, excluding the pay from [REDACTED]/21 which was unrepresentative, the average of the twelve remaining pays was \$761.11. (Ex. 4)
20. On [REDACTED] 2021, the Department issued an NOA to the Appellant discontinuing his SNAP benefits effective [REDACTED] 2021 for the reason, "The monthly gross income of your household is more than the limit for this program." (Ex. 8: NOA)

## 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 in accordance with federal law.
2. "The State agency must base SNAP eligibility solely on the criteria contained in the Act and this part." Title 7 of the Code of Federal Regulations ("CFR") Sec. 273.2(a)(1)
3. "The State agency shall verify disability as defined in § 271.2..." 7 CFR 273.2(f)(1)(viii)(A)
4. 7 CFR § 271.2 provides as follows:

*elderly or disabled member* means a member of a household who: (1) Is 60 years of age or older;

(2) Receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act;

(3) Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act;

(4) Receives federally or State-administered supplemental benefits under section 212(a) of Pub. L. 93-66;

(5) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.

(6) Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code;

(7) Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code;

(8) Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code;

(9) Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under title 38 of the United States Code *and* has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or

(10) Receives an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 *and* is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act.

(11) Is a recipient of interim assistance benefits pending the receipt of Supplemental Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits *provided* that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).

5. **The Appellant's Son did not meet the definition of *elderly or disabled member* in accordance with the provisions in federal SNAP regulation. His Son did not receive income from any of the listed sources (or from any source). He could not have met the criteria in (8) or (9) because he was not a surviving child of a veteran (both his parents are alive).**

6. 7 CFR § 273.9(a) provides, in relevant part, as follows:

- i. 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 the Food Stamp Program. 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 the Food Stamp Program. 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. **The Appellant's household did not contain an elderly or disabled member. The household was, therefore, subject to both the net income and gross income eligibility standards for SNAP, unless it met categorical eligibility requirements.**
8. "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...." 7 CFR § 273.10(c)(1)(i)
9. "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...." 7 CFR § 273.10(c)(1)(ii)
10. **The Appellant had average weekly earnings of \$732.73. The average is based on pays the Appellant received in the 30 days prior to his application, excluding one pay that was unrepresentative.**
11. "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...." 7 CFR § 273.10(c)(2)
12. **The Appellant's weekly earnings had to be converted to a monthly amount. His \$732.73 weekly average gross pay, multiplied by 4.3, equaled \$3,150.74.**
13. States may, at their option, extend categorical eligibility to households "in which all members receive or are authorized to receive non-cash or in-kind services" from a program that is funded in part with State money counted for MOE purposes under Title IV-A, if the program was designed to further either purposes one and two, or three and four, of the TANF block grant. FNS must be informed of, or must approve, the TANF services that a State determines to confer categorical eligibility. 7 CFR § 273.2(j)(2)(ii)
14. **Households in Connecticut with incomes below 185% of the federal poverty level ("FPL") qualify for the State's "Help for People in Need" program which is funded with money counted for TANF MOE purposes and meets the requirements in 7 CFR § 273.2(j)(2)(ii). As such, the Department extends broad-based categorical eligibility for SNAP to all households that qualify for "Help for People in Need".**
15. **The Appellant's SNAP household size was two and his household's total countable gross monthly income was \$3,150.74.**

16. The standards used in the SNAP are adjusted each year on the first day of October. The Federal Poverty Standards applicable to the Appellant's SNAP eligibility determination effective [REDACTED] 2021 are published in the Federal Register, Vol. 85, No. 12 / Friday, January 17, 2021, pp. 3060-3061
17. **185% of the FPL for a household of two persons was \$2,658.00 monthly beginning [REDACTED] 2021. The Appellant's household's total income of \$3,150.74 exceeded 185% of the FPL His household was, therefore, not eligible for "Help for People in Need" and, therefore, not categorically eligible for SNAP under the provisions of 7 CFR § 273.2(j)(2)(ii). Because the household was not categorically eligible, it was required to meet both the gross and net income eligibility standards pursuant to 7 CFR § 273.9(a).**
18. 7 CFR § 273.9(a)(1) discusses the gross income eligibility standards for the Food Stamp Program and provides that: (i) "The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia".
19. **The gross income limit for SNAP for a household of two persons, which is equal to 130% of the FPL, was \$1,888.00 per month beginning [REDACTED] 2021.**
20. **The Appellant's household's income exceeded the gross income limit for SNAP.**
21. **To be eligible for SNAP, households that are not categorically eligible and do not contain an elderly or disabled member must pass both the gross and net income tests. Because the Appellant's household's income exceeded the gross limit he did not qualify for a benefit. Expenses such as the Appellant's child support obligation would have been considered in the calculation of his net income and in his benefit calculation, had his household passed the gross income test.**
22. **The Department was correct when it discontinued the Appellant's SNAP benefits effective [REDACTED] 2021, because his household's gross income exceeded the limit for the program.**

### DISCUSSION

While the Appellant's Son's documented impairments met the requirements of certain agencies or institutions to consider him "disabled" for their purposes, he did not meet the definition for SNAP purposes. Federal regulations precisely define who may be considered an *elderly or disabled member* pursuant to SNAP eligibility.

### DECISION

The Appellant's appeal is DENIED.

*James Hinckley*

James Hinckley  
Hearing Officer

cc: Musa.Mohamud  
Javier Rivera



### **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 06105-3725.

### **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. 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.