

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

[REDACTED], 2022  
**SIGNATURE CONFIRMATION**

**CASE # [REDACTED]  
CLIENT ID # [REDACTED]  
REQUEST# [REDACTED]**

**NOTICE OF DECISION**

**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED] 2021 the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to [REDACTED] (the "Appellant") informing her that she had been approved for Supplemental Nutritional Assistance Program ("SNAP") benefits in the amount of \$63.00 effective [REDACTED] 2021 and \$73.00 beginning [REDACTED] 2021 and ongoing.

On [REDACTED], 2021, the Appellant requested an administrative hearing to appeal the Department's calculation of her SNAP.

On [REDACTED] 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative Hearing for [REDACTED], 2021.

On [REDACTED] 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 hearing was held telephonically due to the COVID-19 pandemic with no objection from any party. The following individuals participated in the hearing:

██████████, Appellant  
Rose Montinat, Department's representative  
Joseph Alexander, Administrative Hearing Office

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly determined the Appellant's monthly SNAP allotment beginning ██████████ 2021 as well as the ongoing SNAP allotment.

### **FINDINGS OF FACT**

1. The Appellant's household consist of the Appellant and her spouse. (Department's Exhibit 1: Application dated ██████████ 2021)
2. The Appellant is ██████ years old (DOB ██████████) and her spouse is ██████ years old (DOB ██████████). (Department's Exhibit 1: Application dated ██████████ 2021).
3. On ██████████ 2021, the Appellant submitted an Online Application (ONAP) to the Department requesting SNAP for herself and her spouse. (Department's Exhibit 1: Application dated ██████████ 2021)
4. On ██████████ 2021, the Department took the following actions:
  - A. Screened the application into the ImpaCT system
  - B. Issued an Interview Notice to the Appellant
  - C. Issued a "Proofs We Need" to the Appellant requesting proof of pension (Department's Exhibit 3: Interview Notice, Department's Exhibit 4: "Proofs We Need")
5. On ██████████, 2021, the Appellant submitted a letter from "██████████ Pension Fund" verifying she receives a gross monthly benefit of \$117.00. (Hearing Record, Department's Exhibit 5: Pension Letter)
6. On ██████████, 2021, the Appellant contacted the Department's Benefit Center and the SNAP interview was conducted. (Hearing Record)
7. On ██████████, 2021, the Department determined the following:
  - A. The Appellant receives a gross monthly pension benefit of \$117.00
  - B. The Appellant receives a gross monthly Social Security benefit of \$1,341.00
  - C. The Appellant' spouse receives a gross monthly Social Security benefit of \$886.00
  - D. The Appellant receives a gross monthly rental income of \$1,200.00
  - E. The Appellant has a monthly rent/mortgage obligation of \$1,650.00
  - F. The Appellant is responsible for paying for heat, cooling, water, and telephone

## Expenses

(Department's Exhibit 1: Application dated [REDACTED] 2021, Department's Exhibit 5: Pension Letter, Department's Exhibit 9: SOLQ-I Results, Hearing Record)

8. On [REDACTED] 2021, the Department approved SNAP benefits for the Appellant's household beginning [REDACTED] 2021, in the amount of \$63.00 and \$73.00 beginning [REDACTED] 2021 and ongoing. (Department's Exhibit 7: Notice of Action)
9. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an Administrative Hearing. The hearing request was received on [REDACTED], 2021 therefore, this decision is due no later than [REDACTED], 2022.

## 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 ("CFR") Sec. 273.9(a) provides, in relevant part, as follows:

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. Household's which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Household's 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 are 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 §673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

3. 7 CFR § 271.2 states that 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.

**The Appellant's household contains elderly members, therefore the household is not subject to the SNAP gross income eligibility standards.**

4. “For purposes 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).
5. “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).

**The Department correctly determined the household income consists of a pension, Social Security benefits and rental income.**

6. 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 and 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)

**Pursuant to SNAP rules, the Appellant’s household size is two and the household’s total countable gross monthly income is \$3,544.00 (refer to Finding of Fact #7 for a list of household income)**

7. The income limits and standards used in the SNAP are adjusted each year on the first day of October. The current figures used for the SNAP are effective from October 1, 2021 through September 30, 2022.

**185% of the Federal Poverty Level (“FPL”) for a household consisting of two person is \$2,686.00 monthly. The Appellant’s household’s total gross income of \$3,544.00 is greater than 185% of the FPL. Despite this, the household is eligible for SNAP as the household is not subject to the SNAP gross income eligibility standards due to containing elderly members. The household is however subject to the net income eligibility standards as specified in CFR §273.2(j)(2) or §273.2(j)(4)**

8. In the benefit determination, the Appellant’s household’s income and deductions must be calculated pursuant to 7 CFR §273.9. Net income and SNAP benefit levels then must be calculated pursuant to 7 CFR §273.10(e).
9. Only certain deductions can be used in the calculation of SNAP benefits. The Income and household expenses which may be used as deductions are described in paragraphs (d)(1) to (d)(6) of 7 CFR §273.9, 7 CFR §273.10(d)(3)-(5) & 7 CFR § 273.11(a)(2) and (b)(1).

10. 7 CFR § 273.9(b)(2)(ii) and (b)(5)(i) & (c)(8) instructs the Department to count Social Security Benefits as unearned income. The Department is further instructed to count the gross amount even if Social Security tax or a Medicare premium is withheld.
11. 7 CFR § 273.9(b)(2)(ii) instructs the Department to count pension payments as unearned income.
12. 7 CFR §273.9(b)(1)(ii) instructs the Department to count rental property income as earned self-employment income unless a 3<sup>rd</sup> party is employed to manage the property, or a member of the Eligibility Determination Group (“EDG”) actively manages the property less than an average of 20 hours per week.
13. 7 CFR § 273.10(d)(3)-(5) & 7 CFR § 273.11(a)(2) and (b)(1) provide for the allowable self-employment expenses which include but are not limited to the following:
  - A. Advertisement costs
  - B. Business portion of the total shelter expense
  - C. Business supplies
  - D. Insurance for buildings, business vehicles, machinery, and trade
  - E. Labor expenses, including employer taxes, insurance premiums, and wages
  - F. Lease of rental payments, including for equipment, storage, warehouse
  - G. Legal and professional fees
  - H. Licensing fees and permits
  - I. Lodging while away from home
  - J. Maintenance and repairs on business equipment and property
  - K. Payments (principal and interest) for the purchase prices of income-producing real estate, capital assets, equipment, machinery
  - L. Providing meals for non-EDG members
  - M. Supplies, including feed, fertilizer, plants, raw materials, seeds, stock
  - N. Taxes paid on income producing property
14. 7 CFR § 273.9(b)(1)(iii) and (c)(9) & 7 CFR § 273.10(a)(2)(i) instructs the Department to subtract the allowable self-employment expenses from the gross self-employment income to determine the net self-employment income. The EDG’s monthly net income is then calculated by dividing the net self-employment income by 12 months for annualized income, or dividing the net self-employment by the number of months the income is intended to convert for averaged income.
15. The standard deduction for a household size of one to six persons is equal to 8.31% of the monthly net income standard for each household size established under §273.9(a)(2) rounded up to the nearest whole dollar. 7 CFR §273.9(d)(1).

**The Appellant’s household qualifies for the standard deduction for a household consisting of one to three persons which is \$177.00. The figure equaling the total deductions allowable under (d)(1) to (d)(5) is applicable to the next calculation.**

16. CFR §273.9(d)(6)(ii) provides for the excess shelter deduction. Monthly shelter expenses in excess of 50% of the household's income after all other deductions in paragraphs (d)(1) to (d)(5) of 7 CFR §273.9 have been allowed, are allowed as an excess shelter deduction.
17. 7 CFR §273.9(d)(6) discussed shelter costs and provides that only certain expenses are allowable as shelter expense, including rent, mortgage, property taxes, insurance on the structure, condo and association fees and the actual costs of utilities.

**The Department correctly included the Appellant's \$1,650.00 monthly Mortgage obligation in the SNAP benefit calculation.**

18. 7 CFR §273.9(d)(6)(iii) provides for a standard utility allowance which may, at State option, be used in place of the actual cost of utilities in determining a household's excess shelter deduction and which may be made available both the household's that incur actual utility expenses and to those that receive assistance under the Low Income Home Energy Assistance Act ("LIHEAA").

**The Department allows a Standard Utility Allowance ("SUA"), currently \$783.00, in place of the actual cost of utilities for qualifying households.**

**The Department correctly included the SUA in the SNAP benefit calculation.**

### DISCUSSION

**The Department did not provide sufficient evidence to support its calculation of the Appellant's household's SNAP benefit for the months of [REDACTED] 2021 and [REDACTED] 2021 through [REDACTED] 2024.**

**The Hearing Officer is unable to determine if the Appellant's rental income has been calculated correctly because the Department counted the gross rental income and does not appear to have applied the appropriate self-employment expenses to the rental income (see Conclusion of Law #12, #13 & #14).**

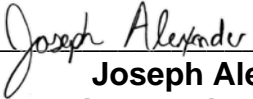
**In addition, the Department is allowing for a monthly "Homeowner's Insurance" expense of \$851.11 (See Department's Exhibit 7: Notice of Action); \$851.11 per month x 12 months equals a yearly insurance costs of \$10,213.32 which is well above the average yearly Homeowner's Insurance expense.**

## DECISION

The Appellant's appeal is Remanded to the Department.

## ORDER

1. The Department shall issue a W-1348 or a W-3016 to the Appellant requesting proof of the amount of monthly taxes and insurance expenses associated with the Appellant's property.
2. The Department shall recalculate the SNAP benefit and issue a new Notice of Action based on the new SNAP benefit calculation.
3. Compliance with this order is due to the undersigned by [REDACTED] 2022, and shall consist of a copy of the Notice of Action generated when the SNAP benefit is recalculated.

  
\_\_\_\_\_  
**Joseph Alexander**  
**Administrative Hearing Officer**

CC: Musa Mohamud, Operations Manager, DSS, Hartford Regional Office  
Judy Williams, Operations Manager, DSS, Hartford Regional Office  
Jessica Carroll, Operations Manager, DSS, Hartford Regional Office  
Jay Bartolomei, Hearing Liaison Supervisor, DSS, Hartford Regional Office  
Rose Montinat, Administrative Hearing Liaison, DSS, Hartford Regional 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 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.