

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

Case ID#: ██████████
Client ID#: ██████████
Request #: 187065

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") indicating that the Appellant's Supplemental Nutrition Assistance Program ("SNAP") benefits would be \$224.00 effective ██████████ 2021.

On ██████████ 2021, the Appellant requested an administrative hearing because she disagrees with the Department's calculation of her SNAP benefits.

On ██████████, 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2022.

On ██████████ 2022, 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 were present at the hearing:

██████████, Appellant
Rose Montinat, Department Representative
Shawn P. Hardy, Hearing Officer

Due to the COVID-19 pandemic, OLCRAH held this hearing as a telephonic hearing.

The hearing record remained open for the submission of additional information and to allow the Appellant the opportunity to receive, review and respond to the hearing summary submitted by the Department. The Appellant did not submit a response. On [REDACTED] 2022, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly reduced the Appellant's SNAP benefits effective [REDACTED] 2021.

FINDINGS OF FACT

1. The Appellant was disqualified from the SNAP program for twelve months due to an Intentional Program Violation ("IPV"), effective [REDACTED] 2021. (Exhibit 11: NOA [REDACTED]/2021)
2. The Appellant receives SNAP benefits for three children as an assistance unit of three members. (Hearing Record, Exhibit 2: Federal SNAP Income Test, Exhibit 3: NOA, [REDACTED]/21)
3. The Appellant receives a monthly Social Security Disability Insurance ("SSDI") income in the amount of \$872.50 and is disabled. (Exhibit 4: NOA [REDACTED]/2021)
4. Child 1 receives a monthly unearned income from the Social Security Administration ("SSA") in the amount of \$294.00. (Exhibit 4: NOA [REDACTED] 2021)
5. Child 2 receives a monthly unearned income from the SSA in the amount of \$294.00. (Exhibit 4: NOA [REDACTED] 2021)
6. Child 3 receives a monthly unearned income from the SSA in the amount of \$294.00. (Exhibit 4: NOA [REDACTED]/2021)
7. The Appellant receives monthly child support income in the amount of \$393.30. The Department did not get a weekly child support amount from the State of [REDACTED] Child Support Unit. (Exhibit 4: NOA [REDACTED]/2021; Exhibit 18: Case Notes – Details [REDACTED]/2021)
8. The Appellant has a monthly rental obligation amount of \$1100.00. (Exhibit 2: Federal SNAP income test; Exhibit 17: Shelter Expenses - Summary)

9. The Department used the Standard Utility Allowance (“SUA”) of \$783.00 in its calculation of the Appellant’s SNAP benefits. (Hearing Record)
10. The Appellant does not make any child support payments. (Exhibit 2: Federal SNAP income test)
11. The Appellant does have any childcare expenses. (Exhibit 2: Federal SNAP income test)
12. The Appellant paid for her Medicare B Premium of \$148.50 per month through [REDACTED]. (Exhibit:16 Medicare Benefits Details)
13. On [REDACTED] 2021, the Department sent the Appellant a NOA reducing the Appellant’s SNAP benefits to \$224.00 effective [REDACTED] 2021 and to \$205.00 effective [REDACTED] 2022 based on an increase in the social security income. (Exhibit 4: NOA [REDACTED])
14. The issuance of the decision is timely under Title 7 of the Code of Federal Regulations (“C.F.R.”) § 273.15 which states that the Department must reach a decision and notify the household within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2021. OLCRAH held the administrative hearing on [REDACTED] 2021. The hearing record remained open to allow the Appellant time to review and respond to the Department’s submission of additional evidence. On [REDACTED] 2022, the hearing record closed with no additional response from the Appellant; therefore, this decision is due not 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. 7 C.F.R § 273.2(j)(2)(vii) provides that under no circumstances shall any household be considered categorically eligible if:
 - (A) Any member of that household is disqualified for an intentional Program violation in accordance with § 273.16 or for failure to comply with monthly reporting requirements in accordance with § 273.21;
- 7 C.F.R § 273.2(j)(4)(iv) provides no person shall be included as a member of an otherwise categorically eligible household if that person is:
- ((E) Disqualified for intentional program violation, as required by § 273.16

The Department correctly determined that the Appellant’s household is not categorically eligible for benefits, the Appellant is not an eligible member of the

SNAP assistance unit due to an IPV and the Appellant's household size is 3 persons.

3. 7 C.F.R. § 273.9(a) provides in part 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)(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 C.F.R. § 273.9(b)(2) provides that unearned income shall include, but not be limited to: (i) assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in §271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income under the provisions of paragraph(c)(1) of this section. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.

7 C.F.R. § 273.11(c) provides for treatment of income and resources of certain non-household members. *During* the period of time that a household member cannot participate for the reasons addressed in this section, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Intentional Program violation, felony drug conviction, or fleeing felon disqualifications, and workfare or work requirement sanctions.* The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible because of a disqualification for an intentional Program violation, a felony drug conviction, their fleeing felon status, noncompliance with a work requirement of § 273.7, imposition of a sanction while they were participating in a household disqualified because of failure to comply with workfare requirements, or certain convicted felons as provided at § 273.11(s) shall be determined as follows:

- (i) *Income, resources, and deductible expenses.* The income and resources of the ineligible household member(s) shall continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care,

child support, and excess shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* The ineligible member shall not be included when determining the household's size for the purposes of:

(A) Assigning a benefit level to the household;

(B) Assigning a standard deduction to the household;

(C) Comparing the household's monthly income with the income eligibility standards; or

(D) Comparing the household's resources with the resource eligibility limits. The State agency shall ensure that no household's coupon allotment is increased as a result of the exclusion of one or more household members.

The Department correctly determined that the Appellant's SSDI income, the children's SSA income and the child support income should be used in the calculation of the Appellant's SNAP benefit.

The Department correctly determined that the Appellant's SSDI income is \$872.50 for [REDACTED]

The Department correctly determined that the Appellant's three children's monthly Social Security income is \$294.00 for [REDACTED]

The Department correctly determined that the Appellant's monthly Child Support income is \$393.30.

The Department correctly determined that the Appellant's total household income effective [REDACTED] was \$2147.80 (Appellant's SSDI, \$872.50 + Child 1's SSA, \$294.00 + Child 2's SSA, \$294.00 + Child 3's SSA, \$294.00 + \$393.30, Child support).

4. 7 C.F.R. § 273.9(d) (1) & (2) provides for standard deductions and earned income deductions.

7 C.F.R. § 273.9(d)(3) provides in pertinent part for medical expense deductions.

The portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in § 271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on eligibility are eligible for this deduction. Allowable medical costs are: medical and dental care, hospitalization or outpatient treatment, nursing care, nursing home care, prescription drugs and other over-the-counter

medication, medical supplies and equipment, insurance policy premiums, Medicare premiums, dentures, hearing aids, prosthetics, securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills, eyeglasses, reasonable cost of transportation and lodging to obtain medical treatment or services, homemaker, home health aide or childcare services, housekeeper, necessary due to age, infirmity or illness.

The Department correctly determined that the Appellant has medical expenses of \$113.50 for [REDACTED] (\$148.50, Medicare B Premium- \$35.00).

The Department correctly applied the \$177.00 standard deduction in its calculations of the Appellant's adjusted gross income.

The Department correctly determined that the Appellant's adjusted gross income ("AGI") for December 2021 is \$1857.30 (\$2147.80, total monthly income – \$177.00, standard deduction, - \$113.50, Medical expenses)

4. 7 C.F.R. § 273.9(d) (6) (iii) provides for the standard utility allowances ("SUA.")

The Department correctly included the SUA amount of \$783.00 to the Appellant's shelter costs.

The Department correctly determined the Appellant's total shelter costs for [REDACTED] were \$1,883.00 (\$1100.00, rent + \$783.00, SUA).

5. 7 C.F.R. § 273.9(d) (6) (ii) provides for excess shelter deduction. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) through (d)(5) of this section have been allowed. If the household does not contain an elderly or disabled member, as defined in §271.2 of this chapter, the shelter deduction cannot exceed the maximum shelter deduction limit established for the area. For fiscal year 2001, effective August 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12 months ending the previous November 30. FNS will notify State agencies of the amount of the limit. Only the following expenses are allowable shelter expenses: (A) Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments. (B) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

The Department incorrectly determined that the Appellant's household is subject to the maximum shelter deduction and that the Appellant's shelter hardship for [REDACTED] was \$597.00.

The Appellant is entitled to a shelter hardship of \$954.35 (\$1883.00 – \$928.65, 50% of the AGI)

11. 7 C.F.R. § 273.10(e)(1)(i)-(ii) provide for the Manual Net Income Calculation.

The Department incorrectly calculated the Appellant's net adjusted income {"NAI"} as **\$1260.30**

The Appellant's net adjusted income ("NAI") for [REDACTED] is **\$902.95** (\$1,857.30, AGI - \$954.35, shelter hardship).

12. 7 C.F.R. § 273.10(e)(2)(ii)(A)(1) provides for the monthly SNAP benefit calculation.

Food Plan (TFP) and Maximum SNAP Allotments. (i) Maximum SNAP allotment level. Maximum SNAP allotments shall be based on the TFP as defined in §271.2, and they shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The TFP for Hawaii shall be the TFP for the 48 States and DC adjusted for the price of food in Honolulu. The TFPs for urban, rural I, and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I, and rural II Alaska as defined in §272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the cost of these TFPs may not exceed the cost of the highest TFP for the 50 States. The TFP amounts and maximum allotments in each area are adjusted annually and will be prescribed in a table posted on the FNS web site, at www.fns.usda.gov/fsp." C.F.R. § 273.10 (e)(4)(i)

7 C.F.R. § 273.18 provides for recoupment rate based on Intentional Program Violation for SNAP.

In [REDACTED] 30% of the Appellant's net adjusted income rounded up totaled \$271.00 (\$902.45, NAI x 30% = \$270.74, rounded up).

The Department correctly determined that the Appellant is subject to a recoupment rate of 20% of her monthly SNAP allotment.

The Appellant's SNAP benefits effective [REDACTED] are computed as follows:

SNAP BENEFIT CALCULATION

INCOME	
Unearned Income	
SSA	\$294.00
SSA	\$294.00
SSA	\$294.00
SSDI	\$872.50
CHILD SUPPORT	\$393.30
Total Income	\$2147.80
Less standard deduction	-\$177.00
Less Medical Expense deduction	-\$113.50
Adjusted gross Income	\$1857.30
SHELTER COSTS	
Rent	\$1100.00
SUA	\$783.00
Total Shelter Costs	\$1,883.00
SHELTER HARDSHIP	
Shelter costs	\$1,883.00
Less 50% of adjusted gross income	-\$928.65
Total shelter hardship <small>(Cannot exceed \$597.00 unless elderly or disabled)</small>	\$954.35
ADJUSTED NET INCOME	
Adjusted gross income	\$1857.30
Less shelter hardship	\$954.35
Net Adjusted Income (NAI)	\$902.95
BENEFIT CALCULATION	
*Thrifty Food Plan for 3 Person(s)	\$658.00
Less 30% of NAI (rounded up)	-\$271.00
SNAP Benefit amount for [REDACTED] 2021	\$387.00
Less 20% overpayment recoupment amount	-\$77.00
SNAP award	\$310.00

The Department incorrectly reduced the Appellant's monthly SNAP allotment to \$224.00, effective [REDACTED] 2021.

The Appellant's correct SNAP monthly benefit effective [REDACTED] 2021 is \$310.00.

DISCUSSION

The Department erred in the calculation of the Appellant's benefits when it removed the Appellant from the SNAP award due to an IPV and began the recoupment of the overpayment caused by the IPV. The Appellant's income, deductions, shelter expenses, and disability are used in the calculation of the household's SNAP benefits even though she is not considered a part of the household size.

The Department did not calculate the Appellant's shelter hardship based on her disability status. The Department incorrectly capped the shelter hardship at \$597.00. The Appellant is entitled to the full shelter hardship.

It should be noted that the Appellant's and her children's income from Social Security increased in [REDACTED] 2022 and the Department began payment of the Appellant's Medicare B premium. The Appellant is no longer entitled to the medical expense deduction of \$113.50 per month effective [REDACTED] 2022.

The Department has created an escalation ticket with its IT department regarding the error in the shelter expense and medical expense calculations.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department is ordered to recalculate the Appellant's SNAP benefits for [REDACTED] 2021 allowing for the full shelter hardship based on the Appellant's disability and issue the Appellant a new Notice of Action regarding the benefit amount.
2. Compliance with this order is due to the undersigned by [REDACTED] 2022.

Shawn P. Hardy
Shawn P. Hardy
Hearing Officer

Pc: Musa Mohamud, Operations Manager, DSS R.O. # 10, Hartford,
Judy Williams, Operations Manager, DSS R.O. # 10, Hartford
Jessica Carroll, Operations Manager, DSS R.O. # 10, Hartford
Rose Montinant, Fair Hearings Liaison, DSS R.O. # 10, Hartford

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 Legal Counsel, Regulations, and Administrative Hearings, 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 06105-3725. 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 his 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.