

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 # ██████████
CI ID # ██████████
Hearing Request # 187833

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”) stating that her Supplemental Nutrition Assistance Program (“SNAP”) benefits were discontinued because her monthly net income exceeds the allowable limit.

On ██████████, 2021, the Appellant requested an administrative hearing because she disagrees with the discontinuance of her SNAP benefits.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ ██████████ 2022.

On ██████████, 2022, 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 hearing was held telephonically due to the Covid – 19 pandemic. The following individuals were present at the hearing:

██████████, the Appellant
Marybeth Mark, Department’s Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's request for SNAP benefits.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Appellant submitted a W-1ER renewal document for SNAP benefits for a household of one person. (Exhibit 1: W-1ER, Notice of Renewal of Eligibility, [REDACTED]/21)
2. The Appellant is Fifty – six years old. (Hearing Record)
3. The Appellant is disabled. (Appellant's testimony, Hearing Record)
4. Effective [REDACTED] 2022, the Appellant receives Social Security Disability ("SSDI") benefits of \$2014.00 per month. (Appellant's testimony, Ex. 2: SOLQ-I Results Details screen-print)
5. The Appellant has a rent expense of \$790.00 per month. (Appellant's testimony and Exhibit 1: W-1ER)
6. The Appellant pays for homeowners' insurance of \$16.09 per month. (Appellant's testimony, Hearing Summary and Exhibit 1)
7. The Appellant is responsible for paying for her heat and received the Standard Utility Allowance ("SUA") (Exhibit 1, Department's testimony)
8. On [REDACTED], 2021, the Department discontinued the Appellant's SNAP benefits because her monthly net income is more than the limit for her household. (Exhibit 5: Notice of Action, [REDACTED]/2021)

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. The Department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Maintenance*, 214 Conn. 601, 573 A.2d (1990)).

3. Title 7 of the Code of Federal Regulations (“CFR”) § 273.9(b)(2)(ii) provides for unearned income and states that annuities; pensions; retirement; veteran’s, or disability benefits; workers or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in § 272.12; old age , survivors, or social security benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

UPM § 5050.13(A)(6) provides that benefits received from Social Security by any member of a Food Stamps (SNAP) unit is counted in the calculation of eligibility and benefits for the entire unit.

The Department correctly determined that the Appellant’s monthly gross countable unearned income from SSDI was \$2014.00.

4. Title 7 CFR § 273.9(d)(1)(i) provides for standard deductions and states that Effective October 1, 2002, in the 48 States and district of Columbia, Alaska, Hawaii, and the Virgin Islands, the standard deduction for household sizes one through six shall be equal to 8.31 percent of the monthly net income eligibility standard for each household size established under paragraph (a)(2) of this section rounded up to the nearest whole dollar. For household sizes greater than six, the standard deduction shall be equal to the standard deduction for a six-person household.

UPM § 5045.15 provides that the amount of applied income upon which the level of SNAP benefits is based is calculated in the following way:

- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 1. the actual amount of self-employment expenses, if applicable; and
 2. any earned income deductions approved by the Social Security Administration in regard to individual self-support plans (Cross reference: 5035.15); and
 3. a deduction of 20% of the gross earnings for personal employment expenses.
- B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
- C. The amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:
 1. a deduction for farming losses, if any;
 2. a disregard of \$177.00 per month; {effective October 2021}
 3. a deduction for unearned income to be used to fulfill a bona-fide plan to achieve self-support (PASS); Cross reference: 5035.15

4. the appropriate deduction for work related dependent care expenses;
5. deduction for allowable medical expenses for those assistance unit members who qualify;
6. a deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
7. a deduction for shelter hardship, if applicable.

(Cross References: 5030 - "Income Disregards" and 5035 "Income Deductions")

- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

The Department correctly applied the \$177.00 standard deduction and determined the Appellant's household adjusted gross monthly income as \$1837 (\$2014.00 SSDI - \$177.00)

5. Title 7 CFR § 273.9(d)(6)(ii) provides for excess shelter deduction. 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 March 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 the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12 month period 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.
 - (C) The cost of fuel for heating; cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes; and fees charged by the utility provider for initial installation of the utility. One-time deposits cannot be included.

(D) The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes; and the home must not be leased or rented during the absence of the household.

(E) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

UPM § 5035.15(F)(1) provides for the calculation of the shelter hardship for the SNAP and states in part that the amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:

- a. rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings;
- b. taxes, state and local assessment, and insurance on real property;

6. Title 7 CFR § 273.9(d)(6)(iii) provides for the standard utility allowances and states:

(A)With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities. However, at its option, the State agency may include the excess heating and cooling costs of public housing residents in the LUA if it wishes to offer the lower standard to such households. The State agency may use different types of standards but cannot allow households the use of two standards that include the same expense. In States in which the cooling expense is minimal, the State agency may include the cooling expense in the electricity component. The State agency may vary the allowance by factors such as household size, geographical area, or season. Only utility costs identified in paragraph (d)(6)(ii)(C) of this section must be used in developing standards.

(B)The State agency must review the standards annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar. State agencies must provide the amounts of standards to FNS when they are changed and submit methodologies used in developing and updating standards to FNS for approval when the methodologies are developed or changed.

(C) A standard with a heating or cooling component must be made available to households that incur heating or cooling expenses separately from their rent or mortgage and to households that receive direct or indirect assistance under the Low Income Home Energy Assistance Act of 1981 (LIHEAA). A heating or cooling standard is available to households in private rental housing who are billed by their landlords on the basis of individual usage or who are charged a flat rate separately from their rent. However, households in public housing units which have central utility meters and which charge households only for excess heating or cooling costs are not entitled to a standard that includes heating or cooling costs based only on the charge for excess usage unless the State agency mandates the use of standard utility allowances in accordance with paragraph (d)(6)(iii)(E) of this section. Households that receive direct or indirect energy assistance that is excluded from income consideration (other than that provided under the LIHEAA) are entitled to a standard that includes heating or cooling only if the amount of the expense exceeds the amount of the assistance. Households that receive direct or indirect energy assistance that is counted as income and incur a heating or cooling expense are entitled to use a standard that includes heating or cooling costs. A household that has both an occupied home and an unoccupied home is only entitled to one standard.

UPM § 5035.15(F)(6) provides that a standard utility allowance determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:

- a. the assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
- b. the bill is established on the basis of individualized metering of service to the unit; or
- c. the costs are paid:
 - (1) totally or partially by the unit; or
 - (2) partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit's total monthly heating or cooling costs; or
 - (3) totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.

The Standard Utility Allowance effective [REDACTED] 2021, is \$783.00.

The Department correctly determined the Appellant's monthly shelter costs were \$1589.09 (\$790.00 rent + \$16.09 insurance + \$783.00 utility standard = \$1589.09).

7. Title 7 CFR § 271.2 provides for the definition of Elderly or disabled members of household and states in part that a household member is: (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

UPM § 5035.15 (F)(10) provides that for those units, which do not have any members who are elderly or disabled, a maximum shelter hardship deduction, which is established by the USDA, is allowed. The maximum shelter hardship is revised annually effective October 1. (**Maximum effectiv [REDACTED] 2021 is \$597.00**)

The Department correctly determined the Appellant's shelter hardship was \$670.59 (\$1589.09 total shelter costs - \$918.50, ½ of adjusted gross income). *The Appellant is not subject to the maximum shelter hardship because she is disabled.*

The Department correctly determined the Appellant's net adjusted (applied) income was \$1166.41 (\$1837.00 Adjusted gross income - \$670.00 shelter hardship = \$1166.41).

8. UPM § 5520.40 provides that income eligibility for the SNAP program is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for Temporary Family Assistance ("TFA") (including diversion assistance), Aid to Families with Dependent Children ("AFDC"), Aid to the Aged, Blind and Disabled ("AABD"), General Assistance ("GA"), State Administered General Assistance ("SAGA"), refugee assistance or Supplemental Security Income ("SSI").

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
 - a. include one or more persons who are elderly or disabled; or
 - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:
 - a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.

- b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.

B. Applied Income Eligibility Test

1. Income eligibility is determined on the basis of the assistance unit's total monthly applied income:
 - a. including those units which are not subjected to the Gross Income Eligibility Test; and
 - b. excluding those units which are considered categorically eligible for FS benefits.
2. The unit's total monthly applied income is compared to an amount equivalent to the Food Stamp Applied Income Limit for the respective unit size:
 - a. If the total applied income exceeds the FSAIL, the unit is not eligible for Food Stamps benefits;
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.

C. Categorical Eligibility Test

Those assistance unit's which qualify as categorically eligible are not subjected to gross or applied income eligibility tests.

9. Title 7 CFR § 273.9 provides (a) *Income eligibility standards*. 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)).

UPM § 2545.05(A) provide for an assistance's unit categorically eligibility for the SNAP program and states that if:

1. all members of the assistance unit receive or are authorized to receive benefits under one or more of the following cash assistance programs:
 - a. TFA, including diversion assistance;
 - b. AABD;

- c. SSI (except if the individual does not meet the Food Stamp technical requirement of citizenship status);
- d. SAGA individual or family assistance;

The Appellant's household is not subject to the Gross Income Test because the Appellant is disabled.

The Appellant's SNAP household is subject to Applied Income Test because her household is not categorically eligible for SNAP benefits. Her household does not receive TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance or SSI.

The Appellant's applied income of \$1166.41 exceeds the applied (Net) income limit of \$1074.00 for a household size of one (1) person.

The Department correctly discontinued the Appellant's SNAP benefits because her household's monthly net income exceeds the net income limit for the program.

DECISION

The Appellant's appeal is **DENIED**.

Scott Zuckerman
Scott Zuckerman
Hearing Officer

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.

