

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

██████████ 2022
Signature confirmation

Case: ██████████
Client: ██████████
Request: 188181

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a *Notice of Action* reducing her Supplemental Nutrition Assistance Program ("SNAP") benefits effective ██████████ 2022.

On ██████████ 2022 and ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received the Appellant's requests for an administrative hearing.

On ██████████ 2022, the OLCRAH scheduled 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, and Section 273.15 (a) of Title 7 of the Code of Federal Regulations ("C.F.R."), the OLCRAH held an administrative hearing by telephone conferencing. The following individuals participated:

██████████ Appellant
Ferris Clare, Department Representative
Eva Tar, Hearing Officer

The hearing record closed ██████████ 2022.

STATEMENT OF ISSUE

The issue is whether the Department correctly reduced the Appellant's SNAP benefits effective [REDACTED] 2022.

FINDINGS OF FACT

1. For approximately two- or two-and-a-half years, the Appellant has resided at [REDACTED] [REDACTED] Connecticut (the [REDACTED] address"). (Appellant Testimony)
2. The Appellant's original lease for the [REDACTED] address listed the following occupants: the Appellant, [REDACTED] (Exhibit 6)
3. The Appellant's current lease for the [REDACTED] address, covering the period from [REDACTED] 2021 through [REDACTED], 2022, lists the following occupants: the Appellant, [REDACTED] (Exhibit 7)
4. In [REDACTED] 2021, the Appellant's daughter [REDACTED] began to attend college in Atlanta, Georgia. (Appellant Testimony) (Exhibit 1)
5. In [REDACTED] 2021, the Department issued the Appellant \$807.00 in SNAP benefits for her household. (Exhibit 2)
6. On [REDACTED] 2021, the Department received the Appellant's completed SNAP renewal form. (Exhibit 1)
7. On the [REDACTED] 2021 SNAP renewal form, the Appellant identified the following individuals as living at the [REDACTED] address: [REDACTED] (Department Representative Testimony) (Exhibit 1)
8. With the [REDACTED] 2021 SNAP renewal form, the Appellant included her lease and her landlord's name and telephone number. (Exhibit 1)
9. [REDACTED] (the "father") is the father of the Appellant's minor children. (Appellant Testimony)
10. On [REDACTED] 2021, the Department ran a match on the father's information with the Department of Labor and The Work Number. (Exhibit 1)
11. The Department of Labor (through [REDACTED] 2021) and The Work Number (as of date of hire, [REDACTED] 2021) identify the father's address as the [REDACTED] address. (Exhibit 9)
12. On [REDACTED] 2021, the Department issued a *Proofs We Need* request to the Appellant, asking her to provide a current lease or utility bill that verifies where the father lives by [REDACTED] 2021; the *Proofs We Need* request cautioned the Appellant that her SNAP benefits may change when her proofs were received. (Exhibit 5)

13. While working as an over-the-road trucker, the father parks his private vehicle behind the Appellant's house as the father's apartment on [REDACTED] only has on-street parking. (Appellant Testimony)
14. The father used to receive mail at the Appellant's address as he was unable to access a post office box due to the COVID-19 pandemic.¹ The father now has a post office box for his mail. (Appellant Testimony)
15. On [REDACTED] 2021, a Department investigator observed the father's private vehicle parked behind the Appellant's residence. (Exhibit 1)
16. On [REDACTED] 2021, the Appellant told the Department investigator that the father lived on [REDACTED] (Exhibit 1)
17. The hearing record is silent as to whether a Department employee directly contacted the Appellant's landlord to verify the household composition in [REDACTED] 2021 and/or directly contacted the father to verify his address in [REDACTED] 2021.
18. On [REDACTED] 2021, the Department issued a *Notice of Action* to the Appellant reducing the Appellant's SNAP benefits from \$807.00 per month to \$232.00 per month, effective [REDACTED] 2022. (Exhibit 2)
19. The decrease to the Appellant's SNAP benefits effective [REDACTED] 2022 occurred due to the Department incorporating the father's wages into the Appellant's household SNAP calculation. (Department Representative Testimony) (Exhibits 1, 2, and 3)
20. On [REDACTED] 2022, the Appellant submitted to the Department the first page of a 2019 month-to-month rental agreement between the father and the landlord for [REDACTED], [REDACTED], Connecticut (the [REDACTED] address"). (Exhibit 8)
21. The father declined to give the Appellant additional documents other than the first page of the 2019 month-to-month rental agreement for the [REDACTED] address. (Appellant Testimony)
22. Title 7, Code of Federal Regulations ("C.F.R.") section 273.15 (c)(1) provides that "[w]ithin 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision...." On [REDACTED] 2022, the OLCRAH received the Appellant's telephoned hearing request. The issuance of this decision would have been due by [REDACTED] 2022. This decision is timely.

¹ On [REDACTED] 2020, Governor Ned Lamont proclaimed a state of emergency throughout the State of Connecticut due to the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed spread in Connecticut. (Executive Order #7, 3/12/2020)

CONCLUSIONS OF LAW

1. The Department is the state agency for the administration of the SNAP pursuant to the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008. Conn. Gen. Stat. § 17b-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 Income Maintenance, 214 Conn. 601, 573 A.2d 712 \(1990\)](#)).

The Department has the authority under State statute to administer the SNAP in Connecticut.

2. Title 7, Code of Federal Regulations (“C.F.R.”), section 273.2 (f)(2)(i) provides: “The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level....”

The Department acted within its authority to verify the Appellant’s household composition as part of the annual SNAP certification process.

3. “State agencies shall use documentary evidence as the primary source of verification for all items *except residency and household size*. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification....” 7 C.F.R. § 273.2 (f)(2)(i). (emphasis added)

Per 7 C.F.R. § 273.2 (f)(2)(i), the Appellant was not required to submit documentary evidence as the primary source of verification for her household size.

4. “The State agency must accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application....” 7 C.F.R. § 273.2 (f)(5)(i).

A lease is reasonable documentary evidence to verify the composition of a tenant household at the time that the contract goes into effect.

Per 7 C.F.R. § 273.2 (f)(5)(i), the Department was required to accept the Appellant’s submitted lease(s) for the [REDACTED] address as reasonable documentary evidence.

5. Title 7, Code of Federal Regulations, section 272.8 (a) provides in part that “State agencies shall maintain and use an income and eligibility verification system (IEVS), as specified in this section. By means of the IEVS, State agencies may request wage and benefit information from the agencies identified in this [paragraph \(a\)\(1\)](#) and use that information in verifying eligibility for and the amount of SNAP benefits due to eligible households....” Subsection (iv) of this section notes that one of the information provider agencies is “[t]he agency administering Unemployment Insurance Benefits (UIB) which

maintains claim information and any information in addition to information about wages and UIB available from the agency which is useful for verifying eligibility and benefits, subject to the provisions and limitations of section 303(d) of the Social Security Act.”

Title 7, Code of Federal Regulations, section 273.2 (f)(2)(iv) provides:

Discrepancies. Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in [§ 272.8](#), the State agency may obtain verification from a third party as specified in [paragraph \(f\)\(9\)\(v\)](#) of this section.

7 C.F.R. § 273.2 (f)(2)(iv). (emphasis in original)

The Department received unverified information through IEVS—by means of its match with the Department of Labor—that indicated a discrepancy with the father’s address.

6. Title 7, Code of Federal Regulations, section § 273.2 (f)(2)(ii) addresses collateral contacts:

Collateral contacts. A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. The State agency may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the State agency. *Examples of acceptable collateral contacts may include employers, landlords, social service agencies, migrant service agencies, and neighbors of the household who can be expected to provide accurate third-party verification....*

7 C.F.R. § 273.2 (f)(2)(ii). (emphasis added)

Title 7, Code of Federal Regulations section 273.2 (f)(5)(ii) provides:

Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, the State agency may require a collateral contact or a home visit in accordance with [paragraph \(f\)\(4\)](#) of this section. The State agency, generally, shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the State agency shall either designate another collateral contact, ask the household to designate another collateral contact or to provide an alternative form of verification, or substitute a home visit. The State agency is responsible for obtaining verification from acceptable collateral contacts.

7 C.F.R. § 273.2 (f)(5)(ii).

Per 7 C.F.R. § 273.2 (f)(2)(ii), a landlord is an acceptable collateral contact for determining the circumstances of an individual’s household by an individual who is not a part of the household.

By providing the name and telephone number of the [REDACTED] address' landlord, the Appellant designated to the Department the landlord an acceptable collateral contact.

Per 7 C.F.R. § 273.2 (f)(5)(ii), had the Department found the Appellant's leases for the [REDACTED] address unacceptable as verification of her SNAP household composition, it would have been permissible for the Department to directly contact the [REDACTED] address landlord.

7. "The Department does not require applicants or recipients to provide documentary evidence to verify the nonexistence of any factor, including the following: a. lack of income; or b. lack of bank accounts or other assets; or c. absence of one parent from the home." Uniform Policy Manual § 1540.05 C.2.

On [REDACTED], 2021, the Department erred when it required from the Appellant documentary evidence to verify that the father did not live at the [REDACTED] address when it had asked her to provide documentary evidence of his current address.

For the purposes of the SNAP, the Department failed to establish that the father was a member of the Appellant's household in [REDACTED] 2022.

The Department erred by administratively adding the father to the Appellant's household effective [REDACTED] 2022.

8. "A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in [paragraph \(b\)](#) of this section: (1) An individual living alone; (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption." 7 C.F.R. § 273.1 (a).

"The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified. (i) Spouses; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s);" 7 C.F.R. § 273.1 (b)(1).

For the purposes of the SNAP, the Appellant's household consists of the Appellant, [REDACTED]

The Department erred by administratively incorporating the father's wages—the wages of an individual who was not a member of the Appellant's household—into the SNAP calculation of the Appellant's household effective [REDACTED] 2022.

The Department incorrectly reduced the Appellant's SNAP benefits effective [REDACTED] 2022.

DISCUSSION

At the [REDACTED] 2022 administrative hearing, the Appellant testified that the father of her children previously used her address as his mailing address while working as an over-the-road trucker. The Appellant testified that the father parks his private vehicle behind the Appellant's house when he is working as an over-the-road trucker, as his apartment on [REDACTED] only has on-street parking. The Appellant's testimony was credible; her testimony was consistent, detailed, and plausible.

"The State agency must accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application...." 7 C.F.R. § 273.2 (f)(5)(i).

The Appellant provided the Department with two consecutive, one-year leases for the [REDACTED] address; these leases do not list the father as a co-tenant or member of the Appellant's household. The Appellant designated her landlord to the Department as an acceptable collateral contact. The Department's contemporaneous case notes as submitted as a hearing exhibit support the Appellant's testimony that she has reported multiple times to different Department employees that the father does not live at the [REDACTED] address.

In re: *Alvarez v. Aronson* (D.Conn. 1990, Unreported), the Department is prohibited from requiring documentary proof of a negative statement: "10. (e) Clients will not be required to prove a negative statement concerning eligibility factors by documentary evidence. For example, clients shall not be expected to prove by documentary evidence that they are not working, that they have no bank accounts, *that a parent is not in the home*, or that they have no income from any source. Defendants shall allow applicants to prove negative statements by their own sworn statements and/or by the sworn statement of a knowledgeable third party..." (emphasis added). Section 1540.05 C.2. of the Department's Uniform Policy Manual speaks to this principle.

The Department's [REDACTED] 2021 request for proof of "where [the father] lives" in essence required the Appellant to prove with documentary evidence her prior negative statements, i.e., that the father is not a co-occupant of the [REDACTED] address.

The Department erred by administratively adding the father to the Appellant's SNAP household as a member and by considering his wages part of that household's income effective [REDACTED] 2022.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will remove the father from the Appellant's SNAP case effective [REDACTED] 2022.

2. The Department will recalculate the Appellant's SNAP benefits—without incorporating the father's wages—effective [REDACTED] 2022. The Department will issue the Appellant any underpayments so created.
3. Within 21 calendar days, or [REDACTED] 2022, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature

Eva Tar
Hearing Officer

Cc: Ferris Clare, DSS-New Haven
Rachel Anderson, DSS-New Haven
Mathew Kalarickal, DSS-New Haven
Lisa Wells, DSS-New Haven

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.