

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 #: 190773

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") indicating that it would discontinue the Appellant's Supplemental Nutrition Assistance Program ("SNAP") benefits effective ██████████, 2022, because his household income exceeded the program income limits.

On ██████████ 2022, the Appellant requested an administrative hearing because he disagrees with the Department's decision to discontinue his 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, 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
Debra James, Department Representative
Shawn P. Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's SNAP benefits.

FINDINGS OF FACT

1. On [REDACTED] 2022, the Appellant submitted a Renewal of Eligibility for SNAP benefits (W1ER) for a household of one person. The Department reviewed the form on [REDACTED], 2022. (Hearing Summary, Exhibit 2: Case notes)
2. The Appellant does not receive any monthly unearned income. (Appellant's Testimony)
3. The Appellant is self-employed. (Appellant's Testimony, Exhibit 1: Notice Of Renewal Of Eligibility – W1ER)
4. The Appellant reported weekly earnings of \$471.25. (Exhibit 1: W1ER)
5. The Department did not send the Appellant a Proof We Need form ("W1348"), requesting verification of self-employment income from [REDACTED] (Department's Testimony)
6. On [REDACTED], 2022, the Department sent the Appellant a NOA discontinuing his SNAP benefits effective [REDACTED], 2022, because his household income exceeds the SNAP program income limits. (Exhibit 4: NOA)
7. This decision is timely under the Title 7 of the Code of Federal Regulations ("C.F.R.") § 273.15, which states that the agency must reach a decision and notify the household of the decision within 60 days of the receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED], 2022. The hearing date was [REDACTED], 2022. This decision is due not later than [REDACTED] 2022.

CONCLUSIONS OF LAW

1. Section 17b-2 (7) of the Connecticut General Statutes, provides the Department of Social Services is designated as the state agency for the administration of the Supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. 7 C.F.R. § 273.2(c)(5) provides that the State agency shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process.

7 C.F.R. § 273.2(h)(i)(C) provides that in cases where verification is incomplete, the State agency must have provided the household with a statement of required verification and offered to assist the household in obtaining required verification and allowed the household sufficient time to provide the missing verification. Sufficient time shall be at least 10 days from the date of the State agency's initial request for the particular verification that was missing.

7 C.F.R. 273.2(f)(5)(i) provides that the household has primary responsibility for providing documentary evidence to support statements of the application and to resolve any questionable information.

7 C.F.R. § 273.9 (b)(2) provides for income countable income and deductions.

7 CFR 273.9(c)(9) provides for the cost of producing self-employment income. The procedures for computing the cost of producing self-employment income are described in § 273.11.

7 C.F.R § 273.11 provides for Actions on households with special circumstances.

(a) ***Self-employment income.*** The State agency must calculate a household's self-employment income as follows:

(1) *Averaging self-employment income.*

(i) Self-employment income must be averaged over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the State agency must calculate the self-employment income on the basis of anticipated, not prior, earnings.

(ii) If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(iii) Notwithstanding the provisions of paragraphs (a)(1)(i) and (a)(1)(ii) of this section, households subject to monthly reporting and retrospective budgeting who derive their self-employment income from a farming operation and who incur irregular expenses to produce such income have the option to annualize the allowable costs of producing self-employment income from farming when the self-employment farm income is annualized.

(2) *Determining monthly income from self-employment.*

(i) For the period of time over which self-employment income is determined, the State agency must add all gross self-employment income (either actual or anticipated, as provided in paragraph (a)(1)(i) of this section) and capital gains (according to paragraph (a)(3) of this section), exclude the costs of producing the self-employment income (as determined in paragraph (a)(4) of

this section), and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. The monthly net self-employment income must be added to any other earned income received by the household to determine total monthly earned income.

(ii) If the cost of producing self-employment income exceeds the income derived from self-employment as a farmer (defined for the purposes of this paragraph (a)(2)(ii) as a self-employed farmer who receives or anticipates receiving annual gross proceeds of \$1,000 or more from the farming enterprise), such losses must be prorated in accordance with paragraph (a)(1) of this section, and then offset against countable income to the household as follows:

(A) Offset farm self-employment losses first against other self-employment income.

(B) Offset any remaining farm self-employment losses against the total amount of earned and unearned income *after* the earned income deduction has been applied.

(iii) If a State agency determines that a household is eligible based on its monthly net income, the State may elect to offer the household an option to determine the benefit level by using either the same net income which was used to determine eligibility, or by unevenly prorating the household's total net income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received. If income is prorated, the net income assigned in any month cannot exceed the maximum monthly income eligibility standards for the household's size.

(3) Capital gains. The proceeds from the sale of capital goods or equipment must be calculated in the same manner as a capital gain for Federal income tax purposes. Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the State agency must count the full amount of the capital gain as income for SNAP purposes. For households whose self-employment income is calculated on an anticipated (rather than averaged) basis in accordance with paragraph (a)(1) of this section, the State agency must count the amount of capital gains the household anticipates receiving during the months over which the income is being averaged.

(b) Allowable costs of producing self-employment income.

(1) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor; stock; raw material; seed and fertilizer; payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; and taxes paid on income-producing property.

(2) In determining net self-employment income, the following items are not allowable costs of doing business:

- (i) Net losses from previous periods;
- (ii) Federal, [State](#), and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 20 percent earned income deduction specified in [§ 273.9\(d\)\(2\)](#);
- (iii) Depreciation; and
- (iv) Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

(3) When calculating the costs of producing self-employment income, [State](#) agencies may elect to use actual costs for allowable expenses in accordance with paragraphs (b)(1) and (b)(2) of this section or determine self-employment expenses as follows:

(i) For income from day care, use the current reimbursement amounts used in the Child and Adult Care Food [Program](#) or a standard amount based on estimated per-meal costs.

(ii) For income from boarders, other than those in commercial boarding houses or from foster care boarders, use:

(A) The maximum SNAP allotment for a household size that is equal to the number of boarders; or

(B) A flat amount or fixed percentage of the gross income, provided that the method used to determine the flat amount or fixed percentage is objective and justifiable and is [stated](#) in the [State's](#) SNAP manual.

(iii) For income from foster care boarders, refer to [§ 273.1\(c\)\(6\)](#).

(iv) Use the standard amount the [State](#) uses for its TANF [program](#).

(v) Use an amount [approved](#) by FNS. [State](#) agencies may submit a proposal to FNS for approval to use a simplified self-employment expense calculation method that does not result in increased [Program](#) costs. Different methods may be proposed for different types of self-employment. The proposal must include a description of the proposed method, the number and type of households and percent of the caseload affected, and documentation indicating that the proposed procedure will not increase [Program](#) costs.

The Department failed to send the Appellant the W-1348 form requesting verification of the reported weekly self-employment income and related expenses that is needed to determine eligibility and include the due date.

The Department failed to notify the Appellant in writing of the required actions and allowed at least 10 days to complete the required action.

The Department incorrectly determined that the Appellant's household income exceeds the SNAP program income limit.

The Department incorrectly discontinued the Appellant's SNAP benefits, effective [REDACTED], 2022, due to excess income.

DECISION

The Appellant's appeal is **GRANTED**

ORDER

1. The Department shall reopen the Appellant's application as of [REDACTED] 2022 and send the Appellant a request for verification of his self-employment income and related expenses and any other required verifications needed to determine eligibility for [REDACTED] 2022 and ongoing.
2. The Department shall submit verification that it has reopened the Appellant's SNAP benefits and that it sent the Appellant a request for information needed to establish eligibility.
3. The compliance with this order is due no later than [REDACTED] 2022.

Shawn P. Hardy
Shawn P. Hardy
Hearing Officer

Pc: Rachel Anderson, Operations Manager, DSS R.O. # 20, New Haven
Mathew Kalarickal, Operations Manager, DSS R.O. # 20, New Haven
Lisa Wells, Operations Manager, DSS R.O. # 20, New Haven
Debra James, Fair Hearings Liaison, DSS R.O. # 20, 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 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.