

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 # ██████████
Client # ██████████
Request # 190923

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”) discontinuing the Appellant Supplemental Nutritional Assistance Program (SNAP) benefits.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the amount of the SNAP benefits.

On ██████████ 2022, the Appellant requested the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) reschedule the administrative hearing to contest the amount of the SNAP benefits.

On ██████████ 2022, the Appellant requested OLCRAH reschedule the administrative hearing to contest the amount of the SNAP benefits.

On ██████████ 2022, OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, 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. OLCRAH held the hearing telephonically with no objections.

The following individuals were present at the hearing:

██████████, Appellant
██████████, Appellant’s Representative
Debra James, Department’s Representative,
Shawn P. Hardy, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department received a direct interface with the Social Security Administration regarding the Appellant's monthly SSDI benefit which indicated that due to the Cost-of-Living Adjustment (COLA) from the Social Security Administration, the Appellant's monthly income increased from \$1954.00 to \$2069.00, effective [REDACTED] 2022. (Hearing summary and Exhibit 1: Notice of Action [REDACTED] 2021)
2. The Appellant's sole source of income is his Social Security Disability Income. (Appellant's Testimony)
3. The Appellant is [REDACTED] years old. He resides alone and is considered a household of one. (Hearing record, Appellant's Testimony)
4. The Appellant's rent is \$168.00 per month. (Hearing summary; Exhibit 1: NOA [REDACTED]/2021)
5. The Appellant is responsible for his heating or cooling. (Appellant's Testimony, Exhibit 1: NOA [REDACTED]/2021)
6. The Appellant has monthly Prescription / Nonprescription medications expenses of \$90.25. (Appellant Testimony, Exhibit 1: NOA [REDACTED]/2021)
7. The Appellant has monthly Medical Marijuana expenses of \$450.00. (Appellant Testimony, Exhibit 1: NOA [REDACTED]/2021)
8. Effective [REDACTED] 2022, the Appellant's monthly SNAP benefit decreased from \$20 to \$0. (Exhibit 1: NOA [REDACTED]/2021)
9. On [REDACTED] 2021, the Department sent the Appellant a notice stating that the Appellant was NOT eligible for SNAP benefit, effective [REDACTED] 2022. (Exhibit 1: NOA)

10. 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; therefore, this decision is due **no** 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. § 273.1(a) provides for the general household definition which states, in part, that a household is composed of one of the following individuals or groups of individuals: (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 meal together for home consumption.

7 C.F.R. § 271.2 provides for the definition of *elderly or disabled member* to include individuals who are 60 years of age or older.

The Department correctly determined the Appellant is disabled, lives alone and is a household of one.

3. 7 C.F.R. § 273.9 (b) provides the definition of income. Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

7 C.F.R. § 273.9 (b) (2) (ii) pertains to Unearned income which shall include, but not be limited to: 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; strike 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 2hours a week.

7 C.F.R. § 273.10(c) (2) (i) provides that income anticipated during the certification period shall be counted as income only in the month it is expected to be received unless the income is averaged. Whenever a full month’s income is anticipated but is received on a weekly or biweekly basis, the State

agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

The Department correctly determined that the Appellant's monthly Social Security Disability income of \$2069.00 is unearned income.

The Department correctly included the Appellant's social security income of \$2069.00 when calculating the SNAP benefits.

4. 7 C.F.R. § 273.9 provides for income guidelines and states in part:

(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 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(i)(2) or 273.2(i)(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)).

(1) The gross income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

(ii) The income eligibility standards for Alaska shall be 130 percent of the Federal income poverty levels for Alaska.

(iii) The income eligibility standards for Hawaii shall be 130 percent of the Federal income poverty levels for Hawaii.

(2) The net income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be the Federal

income poverty levels for the 48 contiguous States and the District of Columbia.

(ii) The income eligibility standards for Alaska shall be the Federal income poverty levels for Alaska.

(iii) The income eligibility standard for Hawaii shall be the Federal income poverty levels for Hawaii.

(3) The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.

(i) 130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upwards as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary.

(ii) The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding the results upward as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

(4) The monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/snap

7 C.F.R. § 273.2(j)(2)(ii) provides that the State agency, at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food and Nutrition Act of 2008:

(A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.

The Department correctly determined that the Appellant was subject to the net income standard.

5. 7 C.F.R. § 273.9 (d) (1) (i) pertains to a **standard deduction** in 48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands and provides, in part, Effective October 1, 2002, in the 48 States and the 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.

7 C.F.R. § 273.9 (d) (3) pertains to **allowable medical expenses** and provides that 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 § 271.20. 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 presumptive eligibility are eligible for this deduction. Allowable medical costs are:

(i) Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

(ii) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State.

(iii) Prescription drugs, when prescribed by a licensed practitioner authorized under State law, and other over-the-counter medication (including insulin), when approved by a licensed practitioner or other qualified health professional.

(A) *Medical supplies and equipment.* Costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible;

(B) *Exclusions.* The cost of any Schedule I controlled substance under The Controlled Substances Act, 21 U.S.C. 801 *et seq.*, and any expenses associated with its use, are not deductible.

(iv) Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible;

(v) Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend down expenses incurred by Medicaid recipients; (vi) Dentures, hearing aids, and prosthetics;

(vii) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(viii) Eyeglasses prescribed by a physician skilled in eye disease or by an optometrist;

(ix) Reasonable cost of transportation and lodging to obtain medical treatment or services;

(x) Maintaining an attendant, homemaker, home health aide, or childcare services, housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one-person benefit allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The State agency is only required to update the allotment amount at the next scheduled recertification; however, at their option, the State agency may do so earlier. If a household incurs attendant care costs that could qualify under both the medical deduction of §273.9(d) (3) (x) and the dependent care deduction of §273.9(d) (4), the costs may be deducted as a medical expense or a dependent care expense, but not both.

The Department correctly determined the Appellant's Prescription / Nonprescription medications was an allowable medical expense for a medical deduction.

The Department correctly determined the Appellant's Medical Marijuana was not an allowable expense for a medical deduction.

The Department considers Medical Marijuana a Schedule One controlled substance.

The Department correctly calculated the amount of the Appellant's household's adjusted gross income as \$1836.75 per month. (\$2069.00 – \$177.00, standard deduction - \$55.25 Medical expenses).

6. 7 C.F.R. § 273.9 (d) (6) (ii) provides, in part, for excess shelter deduction. Monthly shelter 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. 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.

The Department correctly allowed the Appellant a rental expense of \$168.00 per month.

7. 7 C.F.R. § 273.9(d) (6) (iii) pertains to the **standard utility allowance** and provides, in part,

(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.

(B) The State agency must review the standards annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar.

(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).

(D) At initial certification, recertification, and when a household moves, the household may choose between a standard or verified actual utility costs for any allowable expense identified in paragraph (d)(6)(ii)(C) of this section (except the telephone standard), unless the State agency has opted, with FNS approval, to mandate use of a standard. The State agency may require use of the telephone standard for the cost of basic telephone service even if actual costs are higher. Households certified for 24 months may also choose to switch between a standard and actual costs at the time of the mandatory interim contact required by §273.10(f)(1)(i), if the State agency has not mandated use of the standard.

(E) A State agency may mandate use of standard utility allowances for all households with qualifying expenses if the State has developed one or more standards that include the costs of heating and cooling and one or more standards that do not include the costs of heating and cooling, the standards will not result in increased program costs, and FNS approves the standard.

(F) If a household lives with and shares heating or cooling expenses with another individual, another household, or both, the State agency shall not prorate the standard for such households if the State agency mandates use of standard utility allowances in accordance with paragraph (d)(6)(iii)(E) of this section. The State agency may not prorate the SUA if all the individuals who share utility expenses but are not in the SNAP household are excluded from the household only because they are ineligible.

Effective [REDACTED], the Standard Utility Allowance ("SUA") was \$783.00. The Department correctly applied the SUA towards the SNAP benefit.

The Department correctly determined that the Appellant's total shelter cost were \$951.00 (\$168.00, rent + \$783.00, SUA).

The Appellant's shelter hardship is \$32.62 (\$951.00 shelter costs - \$918.37 [50% of the adjusted gross income] = \$32.62).

8. 7 C.F.R. § 273.10 (e) (2) (i) (A) provides households which contain an elderly or disabled member as defined in §271.2, shall have their net income, as calculated in (e) (1) of this section (except for households considered destitute in accordance with paragraph (e) (3) of this section), compared to the monthly income eligibility standards defined in §273.9(a)(2) for the appropriate household size to determine eligibility for the month.

The Appellant's net adjusted income is \$1804.13 (\$1836.75 - \$32.62).

9. 7 C.F.R. § 273.10 (e) (2) (ii) (A) (1) provides for the monthly SNAP benefit calculation. Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round the 30 percent of net income up to the nearest higher dollar.

30% of the Appellant's net adjusted income of \$542.00, rounded up, is \$542.00. (\$1804.13 x .30 = \$541.239)

10. Thrifty Food Plan (TFP) and Maximum SNAP Allotments. 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 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.

Effective [REDACTED] 2021, the TFP amount for a household of one is \$250.00.

11. The Appellant's SNAP benefits are computed as follows:

<u>SNAP BENEFIT CALCULATION</u>	
INCOME	
Unearned Income- SSA	+\$2069.00
Total	\$2069.00
Less standard deduction	-\$177.00
Medical expenses	- \$55.25
Adjusted gross income	\$1836.75
<u>SHELTER COSTS</u>	
Rent	\$168.00
SUA	+ \$783.00
Total shelter costs	\$951.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$951.00
Less 50% of adjusted gross income (\$1836.75 x.5)	-\$918.00
Total shelter hardship	\$32.62 (Cannot exceed \$597 unless elderly or disabled)
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1836.75
Less shelter hardship	-\$32.62
Net Adjusted Income (NAI)	\$1804.13
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 1 Person	\$250.00
Less 30% of NAI	\$542.00
SNAP benefit amount	\$0.00

DISCUSSION

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

The Department correctly discontinued the Appellant's SNAP benefits, effective [REDACTED], 2021, due to excess income.

DECISION

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

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 Jmes, Fair Hearings Liaison, DSS R.O. # 20, New Haven
Ferris Clare, 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.

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, 55 Elm Street, 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 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.