

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 ID # ██████████
REQUEST# 192098

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) denying her application for Supplemental Nutritional Assistance (“SNAP”) benefits.

On ██████████, 2022, the Appellant requested an Administrative Hearing to appeal the Department’s decision to deny SNAP.

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, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Hearing.

The hearing was held telephonically per the Appellant’s request. The following individuals participated in the hearing:

██████████, Appellant
Christine Faucher, Department's Representative
Jessica Gulianello, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's ██████████, 2022, action to deny the Appellant's ██████████, 2022, application for SNAP due to excess income was correct.

FINDINGS OF FACT

1. On ██████████, 2022, the Appellant filed an online application ("ONAP") requesting SNAP benefits for a household of two individuals: ██████████ and her daughter, ██████████. (Exhibit 1: ONAP, Exhibit 7: Case Notes, Hearing Record)
2. On ██████████, 2022, the Department registered the Appellant's SNAP application in the online eligibility management system ("ImpaCT"). (Exhibit 7: Case Notes, Hearing Record)
3. On ██████████, 2022, the Appellant contacted the Department and completed the mandatory SNAP interview via telephone. (Exhibit 7: Case Notes, Hearing Record)
4. The Appellant is a ██████████ employee at ██████████. (Exhibit 1: ONAP, Exhibit 7: Case Notes, Hearing Record)
5. The Department received the following earnings statements from the Appellant to verify her ██████████ wages with ██████████:

Pay Period:	Pay Date:	Gross Wages:	Hours Worked:	Overtime paid:
██████/2022- ██████/2022	██████/2022	\$700.66	42.25	Yes
██████/2022- ██████/2022	██████/2022	\$677.59	34	No
██████/2022- ██████/2022	██████/2022	\$711.82	42.75	Yes
██████/2022- ██████/2022	██████/2022	\$659.53	40.50	Yes

(Exhibit 2: Paystubs, Hearing Record)

6. The Appellant received overtime pay in three of the four checks received. The Department determined the overtime pay was countable income for the SNAP. (Exhibit 2: Paystubs, Department's Testimony)

7. The Appellant and her daughter are not elderly and/or disabled. (Exhibit 1: ONAP, Appellant's Testimony)
8. The Appellant is responsible for a rent of \$1,177 per month plus utility expenses paid separately. (Exhibit 1: ONAP, Exhibit 7: Case Notes, Hearing Record)
9. On [REDACTED], 2022, the Department determined the household was over the gross income limit for the SNAP program. ImpaCT issued the Appellant a W-0001: Notice of Action ("NOA") advising the SNAP application was denied as follows, "The monthly gross income of your household is more than the limit for this program. Does not meet program requirements". (Exhibit 5: NOA, Hearing Record).
10. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, which requires that a decision be issued within 60 days of the request for an administrative hearing. The Appellant requested an Administrative Hearing on [REDACTED], 2022. This decision, therefore, was due no later than [REDACTED], 2022, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statute provides the following: "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."

The Department has the authority to administer the SNAP.

2. Title 7 of the Code of Federal Regulations ("C.F.R") Section 273.2(c)(1)(i) provides the following: *Household's right to file - Where to file*. Households must file SNAP applications by submitting the forms to the SNAP office either in person, through an authorized representative, by mail, by completing an on-line electronic application, or, if available, by fax, telephone, or other electronic transmission.

The Department complied with the Federal Regulation and correctly determined the Appellant filed an ONAP for benefits under the SNAP.

3. 7 C.F.R § 273.2(c)(1)(iv) provides the following: *Recording the filing date*. The date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day. For online applications, the date of application is the date the application is submitted, or the next business day if it is submitted after business hours. For telephonic applications, the date of application is the date on which the household member provides verbal assent.

The Department complied with the Federal Regulation and correctly determined the date of application for the SNAP as ██████████, 2022.

4. 7 C.F.R § 273.1(a) provides the following: *General household definition*. 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(b)(1)(ii) provides the following: *General household definition*. 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. A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).

The Department complied with the Federal Regulations and correctly determined the SNAP household comprised of two individuals.

5. 7 C.F.R § 273.2(e)(1) provides the following: Except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this section, households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State agencies may not require households to report for an in-office interview during their certification period, though they may request households to do so. For example, State agencies may not require households to report en masse for an in-office interview during their certification periods simply to review their case files, or for any other reason. State agencies may not require an in person interview solely to take a photo. Interviews may be conducted at the SNAP office or other mutually acceptable location, including a household's residence. If the interview will be conducted at the household's residence, it must be scheduled in advance with the household. If a household in which all adult members are elderly or disabled is certified for 24 months in accordance with § 273.10(f)(1), or a household residing on a reservation is required to submit monthly reports and is certified for 24 months in accordance with § 273.10(f)(2), a face-to-face interview is not required during the certification period. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The applicant may bring any person he or she chooses to the interview. The interviewer must not simply review the information that appears on the application, but must explore and resolve with the household unclear and incomplete information. The interviewer must advise households of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The interviewer must advise

households that are also applying for or receiving PA benefits that time limits and other requirements that apply to the receipt of PA benefits do not apply to the receipt of SNAP benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for SNAP benefits. The interviewer must conduct the interview as an official and confidential discussion of household circumstances. The State agency must protect the applicant's right to privacy during the interview. Facilities must be adequate to preserve the privacy and confidentiality of the interview.

7 C.F.R § 273.2(e)(2) provides the following: The State agency may use a telephone interview instead of the face-to-face interview required in paragraph (e)(1) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone. The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

The Department complied with the Federal Regulations and completed an on-demand interview with the Appellant by telephone on [REDACTED], 2022.

6. 7 C.F.R § 273.9(b) provides the following: *Definition of income*. Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section. (1) Earned income shall include: (i) All wages and salaries of an employee.

The Department complied with the Federal Regulation and correctly determined the Appellant's gross wages with [REDACTED] are counted income for the SNAP.

7. 7 C.F.R § 273.10(a)(1)(i) provides the following: *Month of application - Determination of eligibility and benefit levels*. A household's eligibility shall be determined for the month of application by considering the household's circumstances for the entire month of application. Most households will have the eligibility determination based on circumstances for the entire calendar month in which the household filed its

application. However, State agencies may, with the prior approval of FNS, use a fiscal month if the State agency determines that it is more efficient and satisfies FNS that the accounting procedures fully comply with certification and issuance requirements contained in these regulations. A State agency may elect to use either a standard fiscal month for all households, such as from the 15th of one calendar month to the 15th of the next calendar month, or a fiscal month that will vary for each household depending on the date an individual files an application for the Program. Applicant households consisting of residents of a public institution who apply jointly for SSI and SNAP benefits prior to release from the public institution in accordance with § 273.11(i) will have their eligibility determined for the month in which the applicant household was released from the institution.

7 C.F.R § 273.10(c)(1)(i) provides the following: *Determining income - Anticipating income.* (i) For the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by § 273.12.

7 C.F.R § 273.10(c)(1) (ii) provides the following: Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income. Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The State agency shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the State agency

automatically attribute to the household the amounts of any past income. The State agency shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

7 C.F.R § 273.10(c)(2)(i) provides the following: *Income only in month received.* 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.

7 C.F.R § 273.10(c)(3)(i) provides the following: *Income averaging.* Income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households. When averaging income, the State agency shall use the household's anticipation of monthly income fluctuations over the certification period. An average must be recalculated at recertification and in response to changes in income, in accordance with § 273.12(c), and the State agency shall inform the household of the amount of income used to calculate the allotment. Conversion of income received weekly or biweekly in accordance with paragraph (c)(2) of this section does not constitute averaging.

The Department complied with the Federal Regulations and correctly converted the Appellant's [REDACTED] gross wages to a [REDACTED] average.

**The Department correctly applied the following standardized calculation:
[REDACTED]/2022: \$700.66 + [REDACTED]/2022: \$677.59 + [REDACTED]/2022: \$711.82 + [REDACTED]/2022:
\$659.53= \$2,749.60 / [REDACTED] checks = \$687.40 x 4.3 [REDACTED] = \$2,955.82 per month.**

8. 7 C.F.R § 273.9(c)(2) provides the following: *Income exclusions.* Only the following items shall be excluded from household income and no other income shall be excluded: Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter.

The Appellant received overtime pay in three of the four checks she provided to the Department.

The Department complied with the Federal Regulation and correctly determined the overtime time pay to be frequent, ineligible for exclusion, and therefore, countable income for the SNAP.

9. 7 C.F.R § 273.9(a) provides the following: *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(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)).

7 C.F.R § 273.9(a)(1)(i) provides the following: The gross income eligibility standards for SNAP shall be as follows: 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.

7 C.F.R § 273.9(a)(2)(i) provides the following: The net income eligibility standards for SNAP shall be as follows: 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.

7 C.F.R § 273.9(a)(3) provides the following: 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.

The Department complied with the Federal Regulations and correctly determined the household was subject to pass the gross income test followed by the net income limit test as the individuals are not elderly or disabled.

The monthly gross income limit for a SNAP household size of two individuals is \$2,686 per month.

The Department determined the Appellant's monthly gross income with [REDACTED] exceeded the gross income limit. Therefore, the net income test was not assessed.

10.7 C.F.R § 273.10(g)(1)(ii) provides the following: *Notice of denial*. If the application is denied, the State agency shall provide the household with written notice explaining the basis for the denial, the household's right to request a fair hearing, the telephone number of the SNAP office (a toll-free number or a number where collect calls will be accepted for households outside the local calling area), and, if possible, the name of the person to contact for additional information. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service. A household which is potentially categorically eligible but whose SNAP application is denied shall be asked to inform the State agency if it is approved to receive PA and/or SSI benefits or benefits from a State or local GA program. In cases where the State agency has elected to use a notice of denial when a delay was caused by the household's failure to take action to complete the application process, as provided in § 273.2(h)(2), the notice of denial shall also explain: The action that the household must take to reactivate the application; that the case will be reopened without a new application if action is taken within 30 days of the date the notice of denial was mailed; and that the household must submit a new application if, at the end of the 30-day period, the household has not taken the needed action and wishes to participate in the program. If the State agency chooses the option specified in § 273.2(h)(2) of reopening the application in cases where verification is lacking only if household provides verification within 30 days of the date of the initial request for verification, the State agency shall include on the notice of denial the date by which the household must provide the missing verification.

On [REDACTED], 2022, the Department complied with Federal Regulation and correctly issued the Appellant a NOA denying the SNAP effective [REDACTED], 2022, as the Appellant's gross income of \$687.40 per week (\$2,955.82 per month) with [REDACTED] is more than the limit of \$2,686 per month for a household size of two individuals.

The Department correctly denied SNAP due to excess income.

DISCUSSION:

The Appellant testified to receiving [REDACTED] child support in an amount that ranges from \$20 to \$50 [REDACTED] from the legally liable relative. There is no evidence to support that this information was disclosed to the Department at the time of application. If the Appellant reapplies the Department should review and verify potential unearned income.

DECISION:

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

Jessica Gulianello

**Jessica Gulianello
Hearing Officer**

CC: Angelica Branfalt-SSOM, Christine Faucher-ESW, Department of Social Services,
Manchester (RO 11)

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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court with 45 days of the mailing of this decision, or 45 days after the agency denies 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 her 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.