

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

████████████████████
Signature Confirmation

██████████ ██████████
██████████ ██████████
Request #: 197518

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 the Appellant’s Supplemental Nutrition Assistance Program (“SNAP”) monthly benefit would be \$82.00 for ██████████ and \$177.00 effective ██████████ 2022.

On ██████████ 2022, the Appellant requested an administrative hearing because she disagrees with the Department’s calculation of her SNAP benefit.

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
██████████, Department Representative
Sybil Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly calculated the Appellant's SNAP benefits for [REDACTED] 2022 and [REDACTED] 2022.

FINDINGS OF FACT

1. On [REDACTED] 2022, the Department received an application for SNAP benefits from Appellant. She applied for SNAP benefits for herself and one children as an assistance unit of two members. (Hearing Record, Exhibit 1: Application, [REDACTED]/22, Exhibit 4: NOA, [REDACTED]22, Exhibit 14: Case Notes)
2. The Appellant is [REDACTED] years old (D.O.B. [REDACTED]) and her son is [REDACTED] years old (D.O.B. [REDACTED]). (Appellant Testimony, Exhibit 1)
3. The Appellant is an undocumented citizen from the country of [REDACTED] and the child is a United States citizen. (Appellant Testimony, Exhibit 1)
4. No household member is disabled or over 60 years old. (Appellant Testimony, Exhibit 1)
5. The Appellant is not employed. (Appellant Testimony)
6. The Appellant receives gross monthly direct child support payments on behalf of the child in the amount of \$1,014.80 (\$236.00, weekly child support x 4.3 weeks). (Appellant Testimony, Exhibit 1, Exhibit 6: Unearned Income Worksheet, Exhibit 8: Federal SNAP-Income Test [REDACTED], Exhibit 9: Federal SNAP-Income Test [REDACTED], Exhibit 13: Custody Agreement, Exhibit 14)
7. The Appellant's monthly rental obligation is \$479.00, and she is responsible for heating and cooling. (Appellant Testimony, Exhibit 1, Exhibit 8, Exhibit 9, Exhibit 14)
8. The Department used the standard utility allowance ("SUA") in the calculation of the Appellant's SNAP benefit. (Department Representative Testimony, Exhibit 5)
9. On [REDACTED] 2022, the Department sent the Appellant a NOA indicating that SNAP benefits were granted for her child in the amount of \$82.00 for [REDACTED] 2022 and \$177.00 [REDACTED] 2022 and ongoing. The Appellant is not eligible for SNAP because of her citizenship status. (Exhibit 4, Department Representative Testimony)
10. Due to the public health emergency created by the COVID-19 pandemic, the Appellant receives the maximum SNAP benefit for a household of two members. (Hearing Record, Department Representative Testimony, Exhibit 3: Benefit Issuance Search)

11. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which states that a decision must be reached, and the household notified within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED] 2022, and the hearing was held on [REDACTED], 2022; therefore, this decision is due not later than [REDACTED] 2022.

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. Title 7 of the Code of Federal Regulations ("C.F.R.") Section 273.9(a) provides in part that 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)(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)).
3. Title 7 of the C.F.R. 273.11(c)(3)(iii) provides that for an alien who is ineligible under § 273.4(a) because the alien's household indicates inability or unwillingness to provide documentation of the alien's immigration status, the State agency must count all or, at the discretion of the State agency, all but a pro rata share of the ineligible alien's income and deductible expenses and all of the ineligible alien's resources in accordance with paragraphs (c)(1) or (c)(2) of this section. In exercising its discretion under this paragraph (c)(3)(iii), the State agency may count all of the alien's income for purposes of applying the gross income test for eligibility purposes while only counting all but a pro rata to apply the net income test and determine level of benefits.

The Department correctly determined that the Appellant is ineligible for SNAP benefits due to her undocumented citizen status, but all income is counted in the calculation of SNAP benefits for eligible household members.

Title 7 C.F.R. § 273.9(b)(2) provides that unearned income shall include, but not be limited to: (i) assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in §271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third

party on behalf of the household) unless the vendor payment is specifically exempt from consideration as countable income under the provisions of paragraph(c)(1) of this section. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.

Title 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 child support income would be used in the calculation of the Appellant's SNAP benefits.

The Department correctly determined that the Appellant's gross monthly unearned income from child support is \$1,014.80 (\$236.00/ weekly child support x 4.3 weeks).

The Department correctly determined that the Appellant's total household income effective ██████ 2022 is \$1,014.80 and ██████ 2022 is \$1,014.80. (\$1,014.80, gross monthly child support payments).

4. Title 7 of the CFR § 273.9(a) provides that 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)).

Title 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.

The Department correctly applied the \$177.00 standard deduction in its calculations of the Appellant's adjusted gross income.

The Department correctly determined that the Appellant's adjusted gross income ("AGI") for █████ 2022 is \$837.80. (\$1,014.80, child support - \$177.00, SUA)

The Department correctly determined that the Appellant's adjusted gross income ("AGI") for █████ 2022 is \$837.80. (\$1,014.80, child support - \$177.00, SUA)

5. Title 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.

6. Title 7 C.F.R. § 273.9 (c)(1)(i) (E) provides that only the following items shall be excluded from household income and no other income shall be excluded: (1) Any gain or benefit which is not in the form of money payable directly to the household, including in-kind benefits and certain vendor payments. In-kind benefits are those for which no monetary payment is made on behalf of the household and include meals, clothing, housing, or produce from a garden. A vendor payment is a money payment made on behalf of a household by a person or organization outside of the household directly to either the household's creditors or to a person or organization providing a service to the household. Payments made to a third party on behalf of the household are included or excluded as income as follows: Housing assistance payments made through a State or local housing authority.
7. Title 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.

The Department correctly included the SUA amount of \$783.00 to the Appellant's shelter costs.

The Department correctly determined the Appellant's total monthly shelter costs for [REDACTED] and [REDACTED] is \$1,262.00 (\$479.00, rent + \$783.00, SUA).

8. Title 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 Department correctly determined that the Appellant is subject to the maximum shelter deduction and that the Appellant's shelter hardship effective [REDACTED] 2021 was \$597.00.

The Appellant's net adjusted income is \$240.80 (\$837.80, Adjusted Gross Income ["AGI"] - \$597.00, maximum shelter hardship).

9. Title 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.

Thirty percent of the Appellant's net AGI rounded up is \$73.00 (\$240.80 x 30% = \$72.24).

10. Food Plan (TFP) and Maximum SNAP Allotments. (i) 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 for Hawaii shall be the TFP for the 48 States and DC adjusted for the price of food in Honolulu. The TFPs for urban, rural I, and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I, and rural II Alaska as defined in §272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the cost of these TFPs may not exceed the cost of the highest TFP for the 50 States. 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." C.F.R. § 273.10 (e)(4)(i)

Effective [REDACTED] 2022, the TFP amount for a household of one members is \$658.00.

11. The Appellant's SNAP benefits for [REDACTED] 2022 are computed as follows:

SNAP BENEFIT CALCULATION

INCOME	
Direct Child Support Payments	
Total Income	\$1,014.80
Less standard deduction	-\$177.00
Adjusted gross income	\$837.80
<u>SHELTER COSTS</u>	
Mortgage / Rent	\$479.00
SUA	\$783.00
Total Shelter Costs	\$1,262.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,262.00
Less 50% of adjusted gross income	-418.90
	\$843.10
Total shelter hardship (Cannot exceed \$597.00 unless elderly or disabled)	\$597.00
<u>ADJUSTED NET INCOME</u>	

Adjusted gross income	\$837.80
Less shelter hardship	<u>-\$597.00</u>
Net Adjusted Income (NAI)	\$240.80
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 1 Person(s)	\$250.00
Less 30% of NAI (rounded up)	<u>-\$73.00</u>
SNAP award (minimum award)	\$177.00
Prorated \$177.00 / 30days	\$5.90
\$5.90 x 14 days (rounded down)	\$82.00

12. The Appellant's SNAP benefits for █████ 2022 are computed as follows:

SNAP BENEFIT CALCULATION

<u>INCOME</u>	
Direct Child Support Payments	
Total Income	\$1,014.80
Less standard deduction	<u>-\$177.00</u>
Adjusted gross Income	\$837.80
<u>SHELTER COSTS</u>	
Mortgage / Rent	\$479.00
SUA	\$783.00
Total Shelter Costs	\$1,262.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,262.00
Less 50% of adjusted gross income	<u>-418.90</u>
	\$843.10
Total shelter hardship (Cannot exceed \$597.00 unless elderly or disabled)	\$597.00
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$837.80
Less shelter hardship	<u>-\$597.00</u>
Net Adjusted Income (NAI)	\$240.80

<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for 1 Person(s)	\$250.00
Less 30% of NAI (rounded up)	<u>-\$73.00</u>
SNAP award (minimum award)	\$177.00

The Department correctly determined that the Appellant's SNAP benefit for [REDACTED] 2022 is \$82.00 and the SNAP benefit for [REDACTED] 2022 and the ongoing months is \$177.00.

DECISION

The Appellant's appeal is DENIED.

**Sybil Hardy*

Sybil Hardy
Hearing Officer

*Electronic Signature

Pc: Angel Branfalt, Operations Manager, DSS R.O. # 11, Manchester
Christine Faucher, Fair Hearings Liaison, DSS R.O. # 11, Manchester

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.