

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: 198274

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) issued ██████████ (the “Appellant”) a *Notice of Action* terminating her household’s Supplemental Nutrition Assistance Program (“SNAP”) benefits effective ██████████, 2022.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s online request 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 video- and telephone- conferencing. The following individuals participated:

██████████, Appellant
Karen Agosto, Department Representative (by telephone)
Jeff Arvai, Department Observer
Eva Tar, Hearing Officer
Joe Davey, Hearing Officer, Observer

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

STATEMENT OF ISSUE

The issue is whether the Department's discontinuance of the Appellant's SNAP benefits effective [REDACTED] 2022 is supported by State statute and Federal regulation.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Appellant entered in a fixed one-year lease for [REDACTED] [REDACTED], Connecticut (the "[REDACTED] address"). The Appellant is the only person identified in the lease as a tenant or occupant. (Department Exhibit 7a)
2. Since [REDACTED] 2021, the Appellant has resided at the [REDACTED] address with her four children. (Appellant Testimony) (Department Exhibit 7a)
3. [REDACTED] (the "father") is the father of two of the Appellant's children, [REDACTED] and [REDACTED]. (Appellant Testimony)
4. The father works as a truck driver. (Appellant Testimony) (Department Exhibits 6 and 7g)
5. In [REDACTED] 2021, the father moved out of the [REDACTED] address; he removed the last of his clothing from the premises around [REDACTED] 2021. (Appellant Testimony) (Department Exhibit 6)
6. The father left some boxes in storage in the Appellant's garage. (Appellant Testimony)
7. On [REDACTED] 2021, the father entered in a lease or rental agreement with [REDACTED] (the "friend") for [REDACTED], Connecticut (the "[REDACTED] address"). (Department Exhibits 6 and 7f)
8. The friend is a tenant of the [REDACTED] address; she is not the owner of the address. (Department Exhibit 6)
9. On [REDACTED] 2021, the Appellant applied for SNAP benefits for herself and her four children. (Department Exhibit 6)
10. In [REDACTED] 2022, Department of Motor Vehicles ("DMV") records identified the [REDACTED] [REDACTED] address as the father's mailing address for the father's driver's license and for his two vehicles: a [REDACTED] and a [REDACTED]. (Department Exhibits 7b and 7c)
11. The father left his [REDACTED] for the Appellant to use when her van stopped working. (Appellant Testimony)
12. The father's motorcycle is not located at the [REDACTED] address; the Appellant does not have possession of it. (Appellant Testimony)
13. On [REDACTED] 2022, a Department employee questioned the Appellant about the father's place of residence. (Department Exhibit 6) (Department Representative Testimony)

14. On [REDACTED], 2022, the Appellant informed a Department employee that the father had left the [REDACTED] address in [REDACTED] 2021. (Appellant Testimony)
15. On [REDACTED], 2022, the Department received a copy of the father's [REDACTED] 2021 lease or rental agreement for the [REDACTED] address. (Department Exhibits 6 and 7f)
16. On [REDACTED] 2022, the Department received a copy of the Appellant's [REDACTED] 2021 lease for the [REDACTED] address. (Department Exhibits 6 and 7a)
17. On [REDACTED] 2022, the Department granted the Appellant SNAP benefits effective [REDACTED] 2022 for the Appellant and her four children. (Department Exhibit 2)
18. On [REDACTED] 2022, the Appellant reported to the Department that the father resided at the [REDACTED] address and was renting a room from one of his friends. (Department Exhibit 6)
19. On [REDACTED] 2022, the father emailed a Department investigator a screenshot of his paycheck and an invoice from a medical provider; both documents list the father's address as the [REDACTED] address. (Department Exhibit 7g)
20. On [REDACTED] 2022, a Department investigator confirmed with the owner of the [REDACTED] [REDACTED] address that the friend was a tenant and the owner was acquainted with the father. (Department Exhibit 6)
21. On [REDACTED] 2022, the father reported to a Department investigator that he stored his belongings at the [REDACTED] address and stops by to visit his children. The father provided a new address (different from the [REDACTED] address) to the Department investigator along with his new roommate's contact information. (Department Exhibit 6)
22. On [REDACTED] 2022, a Department investigator received an email from the father's new roommate. (Department Exhibit 6)
23. On [REDACTED] 2022, a Department investigator was unable to interview the occupants of the father's most recently reported address. (Department Exhibit 6)
24. On [REDACTED], 2022, a Department employee recommended that the father be added to the Appellant's SNAP household and to incorporate the father's income from employment into the Appellant's SNAP computation. (Department Exhibit 6)
25. The hearing record is silent as to when- or if- the Department administratively added the father to the Appellant's SNAP household. (Hearing record)
26. On [REDACTED], 2022, the Department issued a *We Need More Information* to the Appellant requesting verification of the father's last weeks of gross income from any source and verification of his last day worked at his employer by [REDACTED], 2022 or the Appellant's SNAP benefits would end. (Department Exhibit 3)

27. On [REDACTED], 2022, the Department issued a *Notice of Action* terminating the Appellant's SNAP benefits effective [REDACTED] 2022, citing as the reason for termination "[d]id not give us the information needed to continue your benefits." (Department Exhibit 4)
28. Between [REDACTED] 2022 and [REDACTED], 2022, the father updated his mailing address with the DMV as a Post Office box and his residential address as one differing from the Appellant's and other two addresses he had provided to the Department. (Department Exhibits 7b and 7d)
29. 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 online hearing request. The issuance of this decision would have been due by [REDACTED], 2022. This decision is timely.

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. "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.

3. "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...." 7 C.F.R. § 273.2 (f)(2)(iv).
4. Section 1540.05 C. 1. of the Uniform Policy Manual ("UPM") provides: "The Department requires verification of information: a. when specifically required by federal or State law or regulations; and b. when the Department considers it necessary to corroborate an assistance unit's statements pertaining to an essential factor of eligibility."

“Standard of Proof. A statement made by an applicant or a recipient is considered by the Department to be verified when the available evidence indicates *that it is more likely to be true than not.*” UPM § 1540.05 A. (emphasis added)

“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.*” UPM § 1540.05 C.2. (emphasis added)

“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 or rental agreement is reasonable documentary evidence to verify an individual’s address.

Per 7 C.F.R. § 273.2 (f)(5)(i), the Department was required to accept the father’s [REDACTED] 2021 lease or rental agreement as reasonable documentary evidence establishing that the father did not live at the [REDACTED] address as of [REDACTED] 2021.

It is reasonable to conclude that the father moved out of the [REDACTED] address several months prior to the Appellant’s filing of her [REDACTED] 2021 SNAP application.

5. “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 SNAP household consists of the Appellant and her four children.

The Department incorrectly terminated the Appellant’s SNAP benefits effective [REDACTED], 2022, as it required her to provide verification of the income of a non-household member as a condition of continuing SNAP eligibility.

DISCUSSION

On [REDACTED] 2021, the Appellant applied for SNAP benefits for herself and her four children; the Department granted the Appellant SNAP benefits for that household.

When questioned in [REDACTED] 2022 as to whether the father of two of the Appellant's children also lived at the [REDACTED] address, the Appellant reported that the father had moved out a few months prior to her filing the SNAP application. The Department did not believe the Appellant.

In [REDACTED] 2022 and [REDACTED] 2022, the Department received multiple documents—an [REDACTED] 2021 lease, a [REDACTED] 2022 wage stub, and a medical practitioner's reminder to the father of a series of upcoming [REDACTED] 2022 appointments—which provided a different address for the father. The father also reported in a [REDACTED] 2022 interview that the father did not live with the Appellant and had moved on from his [REDACTED] 2021 living arrangements to live with someone else. The father provided the new roommate's contact information to the Department investigator.

While it is the Department's responsibility to resolve discrepancies in household composition, the correct standard for evaluating proof is by a preponderance of the evidence, i.e., that a reported situation or circumstance is "more likely than not." (See UPM § 1540.05 A.) The standard for evaluating verification is not "clear and convincing" and certainly is not "beyond a reasonable doubt."

Further, when a discrepancy involves a negative statement provided to the Department by a public assistance applicant or recipient such as "the father of my children does not live with us," then the Department is barred from requiring documentary proof of the negative statement—per *Alvarez v. Aronson* (D.Conn. 1990, Unreported)¹ and UPM § 1540.05 C.2.—as a condition of eligibility to participate in a public assistance program.

The Department did not utilize the standard of "more likely than not" when reviewing the father's [REDACTED] 2022 and [REDACTED] 2022 submitted documents verifying his address. The evidence submitted for the hearing record reasonably established that the father did not live with the Appellant at the time she applied for SNAP benefits on [REDACTED] 2021, and the father, a truck driver, relocated several times after he left the [REDACTED] address.

The Department erred by terminating the Appellant's SNAP benefits, as it required documentation of the income of a non-household member as a condition of continuing eligibility.

¹ In re: *Alvarez v. Aronson* (D.Conn. 1990, Unreported) prohibits the Department 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...." (emphasis added).

Section 1540.05 C.2. of the Department's Uniform Policy Manual speaks to this principle.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will reinstate or regrant the Appellant's SNAP case effective [REDACTED] 2022. For the purposes of the SNAP, the Appellant's household does not include the father effective [REDACTED], 2021, the date of the Appellant's SNAP application.
2. Provided all factors of eligibility are met, the Department will issue any SNAP underpayments that are due to the Appellant's household.
3. Within 14 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: Karen Agosto, DSS-New Britain
Tim Latifi, DSS-New Britain
Brian Sexton, DSS-Middletown

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.