

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

██████████ 2022
Signature Confirmation

Client ID # ██████████
Case # ██████████
Request # 200256

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") discontinuing her food benefits under the Supplement Nutrition Assistance Program ("SNAP") effective ██████████ 2022.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the Department's decision to discontinue her SNAP benefits.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2022.

On ██████████, 2022, in 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
██████████, Appellant Representative
██████████, Department's Representative
██████████, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's SNAP benefits due to her household income exceeding the net income limit.

FINDINGS OF FACT

1. The Appellant's household consists of three people: herself, the legally liable relative ("LLR"), and their child. The Appellant is [REDACTED] years old [Date of Birth ("DOB"): [REDACTED], [REDACTED]] and is disabled. The legally liable relative, [REDACTED], is [REDACTED] years old [DOB: [REDACTED], [REDACTED]] and is disabled. Their child, [REDACTED] ("the child"), is [REDACTED] old [DOB: [REDACTED], [REDACTED]] and is not disabled. (Appellant's Testimony)
2. On [REDACTED], 2022, the Department sent the Appellant a Notice of Renewal of Eligibility ("W-1ERL") for SNAP. The SNAP benefit period is from [REDACTED], 2021, through [REDACTED], 2022 (Exhibit 1: Notice of Renewal of Eligibility and Department's Testimony)
3. On [REDACTED] 2022, the Department mailed a Warning Notice to the Appellant regarding the SNAP program. The Notice stated, "We sent you a renewal form to complete and return to us by [REDACTED]/2022...As of the date of this notice, we have not yet received your renewal form". (Exhibit 2: Warning Notice and Department's Testimony)
4. On [REDACTED] 2022, the Department issued an NOA to the Appellant which discontinued her SNAP benefits, effective [REDACTED] 2022, due to failure to complete a renewal. (Exhibit 3: Notice of Action dated [REDACTED]/2022 and Department's Testimony)
5. On [REDACTED] 2022, the Appellant completed her SNAP interview and renewal at the Department's Willimantic office. The Appellant reported the LLR was residing with her and requested to add him to her SNAP household. (Appellant's Testimony and Exhibit 11: Case notes)
6. The Appellant works for [REDACTED] and is paid via a stipend. The Appellant provided the following pay stubs: Pay date [REDACTED] 2022, \$550; Pay date [REDACTED] 2022, \$385; and Pay date [REDACTED] 2022, \$550. (Exhibit 9: Paystubs, Exhibit 7b: Earned Income Worksheet, and Appellant Testimony)

Pay Period	Pay Date	Gross Pay
[REDACTED] 2022-[REDACTED] 1, 2022	[REDACTED] 2022	\$550.00

██████████ 2022-██████████, 2022	██████████, 2022	\$385.00
██████████ 2022-██████████, 2022	██████████ 2022	\$550.00

7. The Appellant receives \$922 monthly in Social Security Disability Income ("SSDI"). The LLR receives \$841 monthly in Supplemental Security Income ("SSI"). (Appellant's Testimony, Exhibit 6A, and 6b: Unearned Income Details)
8. On ██████████ 2022, the Department calculated the Appellant's monthly gross earnings as \$2,753.00. Pay date ██████████, 2022 \$550.00 + Pay date ██████████ 2022 \$385.00 + Pay date ██████████ 2022 \$550.00= \$1485/3= \$495 x 2= \$990.00 average monthly income. SSDI \$922 + SSI \$841 = \$1763.00 monthly unearned income. Total gross monthly income \$990.00 + \$1763.00 = \$2763.00. (Department's Testimony, Exhibit 10b: Federal SNAP Income Test)
9. The Appellant and LLR do not pay any child support expenses and do not have recurring medical expenses. (Appellant's Testimony)
10. The Appellant occasionally pays dependent care expenses, but she did not report the expense to the Department. (Appellant's Testimony)
11. The Appellant pays \$456.00 for rent each month. The Appellants rental portion is \$256.00 and the LLR portion is \$200.00 monthly. (Appellant Testimony, and Exhibit 8a, and 8b: Shelter Expenses)
12. The Appellant pays for utilities. The Department applied the Standard Utility Allowance ("SUA") towards the Appellant's SNAP expense. (Exhibit 10b: Federal SNAP Income Test)
13. The Department calculated the Appellant's net monthly income as \$2328.00. (Exhibit 10b: Federal SNAP Income Test)
14. The SNAP net income limit for a household of three equals \$1830.00 or 100% of the Federal Poverty Level ("FPL"). (Exhibit 13: DSS Programs and Standards Chart)
15. On ██████████ 2022, the Department determined the household ineligible for SNAP benefits because the household's net income of \$2328.00 exceeds the SNAP net income limit for a household size of three of \$1830.00. (Exhibit 13: DSS Programs and Standards Chart and Department's Testimony)
16. On ██████████ 2022, the Department issued an NOA to the Appellant. The notice informed the Appellant her SNAP benefit amount for ██████████ 2022 was \$59.00 and her SNAP benefits will be closed on ██████████, 2022. The notice listed the reason for discontinuance as, "the amount of income we count is higher than the maximum SNAP benefit for your household size [and] does not meet program requirements." (Exhibit 4: NOA dated ██████████/2022)

17. The issuance of this decision is timely under Section 17b-61(a) of the Connecticut General Statutes, which requires that the Department issue a decision within 60 days of the request for an administrative 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. Title 7 of the Code of Federal Regulations ("C.F.R.") section 273.1(b) provides for required household combinations. 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); and (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household unless State law defines such a person as an adult.

The Department correctly determined that the Appellant's SNAP household consists of herself, the LLR, and their child.

3. 7 CFR § 273.14(a) provides for recertification no household may participate beyond the expiration of the certification period assigned in accordance with [§ 273.10\(f\)](#) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

The Department correctly issued a W1ER Renewal of Eligibility on [REDACTED] 2022.

The Department correctly discontinued the Appellant's SNAP benefits, effective [REDACTED], 2022, due to failure to complete a renewal.

4. 7 CFR § 273.14(e)(3) provides if a household files an application within 30 days after the end of the certification period, the application shall be considered an application for recertification; however, benefits must be prorated in accordance with § 273.10(a). If a household's application for recertification is delayed beyond the first of the month of what would have been its new certification period through the fault of the State agency, the household's benefits for the new certification period shall be prorated based on the date of the new application, and the State agency shall provide restored benefits to the household back to the date the household's certification period should have begun had the State agency not erred and the household been able to apply timely.

The Department correctly recertified the Appellant's SNAP as of [REDACTED] 2022.

5. 7 CFR § 273.9(b) provides for the 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
6. 7 CFR § 273.10(c) provides for anticipating income 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. 7 CFR § 273.10(c)(2)(i) provides for 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.

8. 7 CFR § 273.10(c)(3)(i) provides for 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.
9. 7 CFR § 273.10(c)(3)(ii) provides that households which, by contract or self-employment, derive their annual income in a period of time shorter than 1 year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farmworkers. The procedures for averaging self-employed income are described in [§ 273.11](#). Contract income which is not the household's annual income and is not paid on an hourly or piecework basis shall be prorated over the period the income is intended to cover.
- 10.7 CFR § 273.10(c)(3)(iii) provides that earned and unearned educational income, after allowable exclusions, shall be averaged over the period which it is intended to cover. Income shall be counted either in the month it is received, or in the month the household anticipates receiving it or receiving the first installment payment, although it is still prorated over the period it is intended to cover.

The Department incorrectly determined the Appellant's countable gross earnings as \$990.00 per month by averaging the Appellant's irregular wages and multiplying that figure by 2.

DISCUSSION

On [REDACTED], 2022, the Appellant informed the Department of the following and provided verification during the hearing:

- The Appellant is no longer employed with [REDACTED] as of [REDACTED] 2022 (Exhibit 14: [REDACTED] letter)
- In [REDACTED] 2022 the Appellant began working with a new employer: [REDACTED], two wage stubs were provided (Exhibit 16: [REDACTED] wage stubs)
- As of [REDACTED] 2022, the child receives \$90.00 monthly in Social Security Benefits (Exhibit 17: SSA letter)

The Department incorrectly calculated the Appellant's per diem income from [REDACTED] when it erroneously multiplied the five-week averaged pay by two. The income averaging regulations outlined under 7 C.F.R. § 273.10(c)(3) do not support multiplying that averaged amount by two.

The Appellant also provided verifications during the hearing that she is no longer employed with [REDACTED] as of [REDACTED] 2022. Furthermore, in [REDACTED] 2022, the Appellant began working for [REDACTED], and submitted two wage stubs. As of [REDACTED] 2022, the child receives \$90 per month in Social Security benefits. Based on this information, the Department should recalculate the exact amount of income received in [REDACTED] and [REDACTED] 2022 as outline under 7 C.F.R. § 273.10(c)(2)(i).

On [REDACTED] 2022, the Department reviewed the Appellant's eligibility with the new information provided by the Appellant. The Appellant is eligible for SNAP as of [REDACTED] 2022 ongoing. The household is still over the net income limit for [REDACTED] 2022. (Exhibit 18: NOA dated [REDACTED]/2022 and Exhibit 19: Email from the Department)

DECISION

The Appellant's appeal is **REMANDED** back to the Department

ORDER

The Department must take the following actions:

Order #1 Issue a W-1348 Proofs We Need form requesting all paystubs for the months of [REDACTED] 2022 and [REDACTED] 2022 for all members of the household.

Order #2 If/when received, the Department shall calculate and update the exact amount of earned income received in both [REDACTED] 2022 and [REDACTED] 2022.

Order #3 Rerun eligibility for [REDACTED] 2022 and [REDACTED] 2022 using the exact income for each month.

Order #4 Compliance is due no later than [REDACTED] 2022.

[REDACTED]
Fair Hearing Officer

CC: [REDACTED], Fair Hearing Liaison
[REDACTED], SSOM [REDACTED] Regional Office

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.