

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

██████████ 2023
Signature confirmation

Case: ██████████
Client: ██████████
Request: 210363

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

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

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s telephoned hearing request.

On ██████████ 2023, the OLCRAH scheduled the administrative hearing for ██████████ 2023.

On ██████████, 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, and Title 7, Section 273.15 of the Code of Federal Regulations (“C.F.R.”), the OLCRAH held an administrative hearing. The following individuals participated by telephone conferencing:

██████████, Appellant
Chris Filek, Department Representative
Eva Tar, Hearing Officer

The hearing record closed ██████████, 2023.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined that the Appellant’s household was ineligible to participate in the SNAP effective ██████████, 2022.

FINDINGS OF FACT

1. The Appellant is ■ years old. (Appellant Testimony)
2. The Appellant's household consists of the Appellant and her four minor children. (Appellant Testimony)
3. There are no elderly or disabled individuals in the Appellant's household. (Appellant Testimony)
4. The Appellant's most recent SNAP certification period ran from ■ 2022 through ■ 2022. (Department Representative Testimony)
5. On ■ 2022, the Appellant grossed \$1,798.60 in wages from her employer for the pay period of ■ 2022 through ■ 2022; the gross wages include overtime and double-time hours. (Dept. Exhibit 2)
6. On ■ 2022, the Department's automated system reviewed the Appellant's submitted redetermination form. (Dept. Exhibit 9)
7. On ■ 2022, the Appellant grossed \$1,542.19 in wages from her employer for the pay period of ■, 2022 through ■ 2022; the gross wages include overtime hours. (Dept. Ex. 1)
8. From ■ 2022 through ■, 2022, the State of Connecticut collected \$2,415.00 in child support from ■ ("Father #1"), the father of the older two of the Appellant's four children. (Dept. Exhibit 3)
9. Father #1 is inconsistent with his child support payments. (Appellant Testimony)
10. The Appellant recently stopped receiving child support payments from Father #1 as the State of Connecticut had notified her that it was unable to locate Father #1 for wage garnishment. (Appellant Testimony)
11. When budgeting child support income with respect to the SNAP, the Department averages the amount of child support received over the previous three months. (Department Representative Testimony)
12. ■ ("Father #2"), the father of the younger two of the Appellant's four children, regularly gives the Appellant \$175.00 per week in direct child support. (Appellant Testimony) (Dept. Exhibit 2)
13. On ■, 2022, the Department issued a *Notice of Action* terminating the Appellant's SNAP benefits effective ■ 2022. (Dept. Exhibit 4)
14. On or around ■ 2023, the Department rescreened the Appellant's SNAP case. (Department Representative Testimony)

15. On [REDACTED] 2023, the Department issued a *Notice of Action* asserting that the Appellant's household was ineligible for SNAP benefits in [REDACTED] 2023 due to her household income. (Dept. Exhibit 4) (Dept. Exhibit 9)
16. Title 7, Code of Federal Regulations ("C.F.R.") section 273.15 (c)(1) provides in part 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] 2023, the OLCRAH received the Appellant's hearing request. The issuance would have been due by [REDACTED], 2023. This decision is timely.

CONCLUSIONS OF LAW

1. The Department of Social Services is the designated state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008. Conn. Gen. Stat. § 17b-2.

The Department has the authority to administer the SNAP in Connecticut.

2. Title 7, Code of Federal Regulations ("C.F.R.") Section 273.1 (a) provides: "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."

"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) ...; (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); (iii)" 7 C.F.R. § 273.1 (b)(1).

The Appellant and her four minor children are a SNAP household of five.

3. ***Application for recertification.*** Eligibility for recertification shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. The level of benefits for recertifications shall be based on the same anticipated circumstances, except for retrospectively budgeted households which shall be recertified in accordance with [§ 273.21\(f\)\(2\)](#)...." 7 C.F.R. § 273.10 (a)(2).

"Available resources at the time the household is interviewed shall be used to determine the household's eligibility." 7 C.F.R. § 273.10 (b).

"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....” 7 C.F.R. § 273.10 (c)(1)(i).

The Department correctly reviewed the household’s income as part of its evaluation of whether the Appellant’s household was eligible to participate in the SNAP.

4. “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.” 7 C.F.R. § 273.9 (b)(1)(i).

The Appellant’s wages are counted, earned income.

5. “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 [Public Assistance] conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period....” 7 C.F.R. § 273.10 (c)(2)(i).

For the purposes of the SNAP, the Appellant’s anticipated monthly income from wages equaled \$3,591.33, or the average of her two submitted biweekly paystubs multiplied by 2.15.

6. “Unearned income shall include, but not be limited to: (i) ..., (ii) ..., (iii) Support or alimony payments made directly to the household from nonhousehold members” 7 CFR 273.9(b)(2)(iii).

The child support received by the Appellant’s household is counted, unearned income.

7. “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....*” 7 C.F.R. § 273.10 (c)(1)(ii). (emphasis added)

The Department’s general practice of averaging intermittent or irregular child support income over the three months preceding a SNAP redetermination or application to anticipate fluctuating child support income is reasonable.

For the purposes of the SNAP, the Appellant’s anticipated monthly unearned income through child support from Father #1 equals \$805.00, or the average of the most recent three months of child support collected by the State of Connecticut on the Appellant’s behalf, in accordance with 7 C.F.R. § 273.10 (c)(1)(ii).

For the purposes of the SNAP, the Appellant’s anticipated monthly unearned income through child support from Father #2 equals \$752.50, or the weekly amount of child support multiplied by 4.3 weeks per month, in accordance with 7 C.F.R. § 273.10 (c)(2)(i).

8. “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 do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP....” 7 C.F.R. § 273.9 (a).

As a condition of SNAP eligibility, the Appellant’s SNAP household is subject to the Program’s gross income limit and the Program’s net income limit, as the household contains no elderly or disabled members.

9. “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)(1)(i).

Title 7, Code of Federal Regulations, Section 273.2 (j)(2)(ii) and (iii) addresses the State option of extending categorical eligibility to further the purposes of the Food and Nutrition Act of 2008.

Under Expanded Categorical Eligibility, Connecticut utilizes a SNAP gross income limit of 200 percent of the Federal Poverty Level, effective October 1, 2022.¹

One hundred percent of the annual Federal Poverty Level for a family of five equaled \$32,470.00 in 2022.²

The Appellant’s household monthly income of \$5,148.83, from wages and child support did not exceed \$5,412.00, or 200 percent of the Federal Poverty Level for a household of five, the gross income limit under Connecticut’s implementation of Expanded Categorical Eligibility.

It cannot be determined from the hearing record whether the Appellant’s household met the net income limit of the SNAP in [REDACTED] 2023 and [REDACTED] 2023.

DECISION

The Appellant’s appeal is **GRANTED** in part.

ORDER

1. The Department will rescreen the Appellant’s SNAP case effective [REDACTED] 2023 and evaluate the Appellant’s eligibility for the Program.

¹ *POGA Communication to DSS Eligibility Staff, 9/6/2022.*

² *Annual Update of the HHS Poverty Guidelines, 87 Fed. Reg. 3315-3316 (January 21, 2022).*

- In evaluating the Appellant's eligibility to participate in the SNAP in [REDACTED] 2023, the Department will use the monthly figures arrived at in the Findings of Fact, i.e., \$3,591.33 (gross wages), \$805.00 (Father #1 gross child support), and \$752.50 (Father #2 gross child support). The Department also will update the Appellant's permitted deductions for shelter and childcare, if appropriate.
 - In evaluating the Appellant's eligibility to participate in the SNAP in [REDACTED] 2023, the Department will recalculate the child support collected by the State of Connecticut and distributed to the Appellant from Father #1 by using an average of the three months of child support collected in [REDACTED] 2022, [REDACTED] 2022, and [REDACTED] 2023.
 - If after review of the Child Support Enforcement Services (CSES) records for [REDACTED] 2023 and [REDACTED] 2023, the Department finds that the State of Connecticut was unable to collect child support from Father #1 in those months, the Department will remove that income from its calculation of the Appellant's SNAP eligibility.
2. Should the Department find that the Appellant's household is ineligible for SNAP benefits in either [REDACTED] 2023 or [REDACTED] 2023, the Department will issue a new *Notice of Action*, preserving the Appellant's right to appeal that decision, should she file a request for a hearing timely.
 3. Within 14 calendar days of the date of this Decision, or [REDACTED], 2023, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Chris Filek, DSS-Middletown
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.