

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: 210541

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ ██████████ (the “Appellant”) terminating his Supplemental Nutrition Assistance Program (“SNAP”) benefits effective ██████████, 2022.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s online hearing request, filed after business hours on ██████████ 2023.

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 was ineligible to participate in the SNAP effective [REDACTED] 2022.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old. (Appellant Testimony)
2. The Appellant is not disabled. (Appellant Testimony)
3. The Appellant's most recent SNAP certification period ran from [REDACTED] 2022 through [REDACTED], 2022. (Department Representative Testimony)
4. The Appellant is a [REDACTED] student. (Appellant Testimony)
5. The Appellant receives financial aid for his university education through a [REDACTED] Loan, Federal Pell Grant, and a FSEOG Grant. These financial aid instruments address tuition and other related expenses and are not for the purpose of paying for room and board. (Dept. Exhibit 2)
6. In the relevant period, the Appellant was working at [REDACTED] and was working as a self-employed streamer for [REDACTED]. (Appellant Testimony)
7. In [REDACTED] 2022, the Appellant grossed \$826.45 in tips as a streamer. (Dept. Exhibit 1)
8. In [REDACTED] 2022, the Appellant grossed \$1,496.60 in tips as a streamer. (Dept. Exhibit 1)
9. On [REDACTED], 2022, the Department received the Appellant's online renewal. (Dept. Exhibit 4)
10. On [REDACTED], 2022, the Department issued a *Notice of Action* terminating the Appellant's SNAP benefits effective [REDACTED], 2022. (Dept. Exhibit 5)
11. The [REDACTED], 2022 closure was an auto-denial; a Department employee had not reviewed the Appellant's [REDACTED] [REDACTED] 2022 online renewal. (Department Representative Testimony)
12. On [REDACTED] 2023, a Department employee reviewed the Appellant's [REDACTED] 2022 online renewal. (Department Representative Testimony)
13. In [REDACTED] 2023, the Appellant grossed \$1,678.88 in wages at [REDACTED] [REDACTED]. (Dept. Exhibit 1)

14. The hearing record is silent as to the amount of self-employment income the Appellant received as a streamer in ██████████ 2023. (Hearing record)
15. On ██████████ 2023, the Department completed a telephone interview with the Appellant. (Dept. Exhibit 4)
16. On ██████████ 2023, the Department issued a *Proofs We Need* to the Appellant in part requiring the Appellant to submit by ██████████ 2023 the last three months of earnings records with ██████████ “with a self declared, signed and data statement explaining his work capacity with the company.” The *Proofs We Need* did not request an explanation of the Appellant’s business expenses. (Dept. Exhibit 6)
17. Typically, the Department requires a profit-loss statement for three months when calculating an individual’s self-employment income. (Department Representative Testimony)
18. The Department did not request a three-month profit-loss statement from the Appellant on the ██████████ 2023 *Proofs We Need*. (Dept. Exhibit 6)
19. On ██████████, 2023, the Appellant submitted ██████████ bank deposits for ██████████ 2022 and ██████████ 2022 to the Department. (Dept. Exhibits 1 and 4)
20. In reviewing the Appellant’s SNAP case, the Department considered an estimated credit of \$312.00 to the Appellant from the Appellant’s financial aid package to be counted income. (Dept. Exhibit 7)
21. On ██████████, 2023, the Department issued a *Notice of Action* asserting that the Appellant was ineligible for SNAP benefits effective ██████████ 2022 due to his monthly gross income exceeding the SNAP’s limits. (Dept. Exhibit 7)
22. On ██████████, 2023, the Department Representative verified with ██████████, the owner of ██████████, that the Appellant was no longer employed with that company. (Department Representative)
23. On or around ██████████, ██████████, 2023, the Appellant began new employment at ██████████. (Appellant Testimony)
24. 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 ██████████ 2023, the OLCRAH received the Appellant’s hearing request. The issuance would have been due by ██████████ 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....”

The Appellant is a SNAP household of one.

3. “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.” 7 C.F.R. § 273.14 (a).

“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....” 7 C.F.R. § 273.10 (a)(2).

“If an eligible household files an application before the end of the certification period but the recertification process cannot be completed within 30 days after the date of application because of State agency fault, the State agency must continue to process the case and provide a full month's allotment for the first month of the new certification period....” 7 C.F.R. § 273.14 (e)(1).

The Appellant correctly submitted his [REDACTED] 2022 online renewal prior to [REDACTED] 2022, the final day of his certification period.

The Department erred when it failed to complete the recertification process by [REDACTED] 2023, the 30th day following the Appellant’s [REDACTED] 2022 submission of his online renewal.

4. “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 acted in accordance with 7 C.F.R. § 273.10 when it attempted to review the Appellant’s income as part of its evaluation of his eligibility to participate in the SNAP.

5. “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. (ii) The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the costs of doing business as provided in [paragraph \(c\)](#) of this section....” 7 C.F.R. § 273.9 (b)(1)(i) and (ii).

For the purposes of the SNAP, the Appellant’s wages and self-employment income from streaming are earned income.

6. Title 7, Section 273.9 (c) of the Code of Federal Regulations provides for income exclusions. Subsection (c)(3)(i) provides for the exclusion of “[e]ducational assistance, including grants, scholarships, fellowships, work study, educational loans on which payment is deferred, veterans' educational benefits and the like.” Subsection (c)(3)(ii) addresses the specific requirements for educational assistance to be excluded.

“Normal living expenses which are room and board are not excludable.” 7 C.F.R. § 273.9 (c)(3)(ii)(C)(9).

For the purposes of the SNAP, the Appellant’s financial aid as provided by the ██████████ Loan, Federal Pell Grant and FSEOG Grant are excluded as income.

The \$312.00 estimated credit from the Appellant’s financial package is excluded as 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 ██████████ 2023 request to the Appellant for verification of his last three months of self-employment income as a streamer was reasonable, as the income fluctuated from month-to-month.

8. **“Income exclusions.** Only the following items shall be excluded from household income and no other income shall be excluded: ... (9) The cost of producing self-employment income. The procedures for computing the cost of producing self-employment income are described in § 273.11.” 7 C.F.R. § 273.9(c)(9).

Title 7, Code of Federal Regulations, Section 273.11 (a)(2)(i) provides:

Determining monthly income from self-employment. For the period of time over which self-employment income is determined, the State agency must add all gross self-employment income (either actual or anticipated, as provided in [paragraph \(a\)\(1\)\(i\)](#) of this section) and capital gains (according to [paragraph \(a\)\(3\)](#) of this section), exclude the costs of producing the self-employment income (as determined in [paragraph \(a\)\(4\)](#) of this section), and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. *The monthly net self-employment income must be added to any other earned income received by the household to determine total monthly earned income.*

7 C.F.R. § 273.11(a)(2). (emphasis added.)

Title 7, Code of Federal Regulations, Section 273.14 (b)(4) provides:

Verification. Information provided by the household shall be verified in accordance with [§ 273.2\(f\)\(8\)\(i\)](#). The State agency shall provide the household a notice of required verification as provided in [§ 273.2\(c\)\(5\)](#) and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 days to provide required verification information. Any household whose eligibility is not determined by the end of its current certification period due to the time period allowed for submitting any missing verification shall receive an opportunity to participate, if eligible, within 5 working days after the household submits the missing verification and benefits cannot be prorated.

7 C.F.R. § 273.14 (b)(4).

The Department erred when it failed to request verification of the Appellant’s costs of producing his self-employment income prior to its ██████████ 2023 action to deny the Appellant recertification of his SNAP benefit, as the Appellant may have been eligible for income exclusions from his self-employment income.

For the purposes of the SNAP, the Appellant’s anticipated monthly self-employment income cannot be determined from the hearing record.

9. “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.

10. "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 Federal Poverty Level for an individual residing in the 48 contiguous States and the District of Columbia equaled \$13,590.00 per year—or \$1,132.50 per month—in 2022.²

It cannot be determined from the hearing record whether the Appellant's gross wages and net self-employment income exceeded \$2,265.00, or 200 percent of the Federal Poverty Level per month for an individual, the gross income limit under Connecticut's implementation of Expanded Categorical Eligibility.

It cannot be determined from the hearing record whether the Appellant was ineligible to participate in the SNAP effective [REDACTED], 2022.

DECISION

The issue of this hearing is REMANDED to the Department for further action.

ORDER

1. The Department will rescreen the Appellant's SNAP case effective [REDACTED] 2023.
2. The Department provide a written request for verification to the Appellant, giving him a deadline of 10 days to submit the following: 1) his [REDACTED] wages in [REDACTED] 2023; and 2) a signed three-month profit/loss statement attesting to the Appellant's identifying his gross receipts and specific business expenditures in [REDACTED] 2022, [REDACTED] 2023, and [REDACTED] 2023.
3. The Department will remove the \$312.00 "Educational Aid used for Living Expenses" entry from the Appellant's SNAP income, as the anticipated credit is excluded income.

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).*

4. If it has not already done so, the Department will update the Appellant's SNAP case with respect to his new employment at [REDACTED], starting [REDACTED], 2023.
5. 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.