

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

██████████, 2023
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 214962

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2023, ██████████ (“the Appellant”) requested an administrative hearing because he disagrees with the closure of his benefits under the Supplemental Nutrition Assistance Program (“SNAP”). The Appellant also disagrees with his SNAP benefit amount of \$23.00, effective ██████████ 2023.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling 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, OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
Jessica Burgos, Department’s Representative
Kristin Haggan, Fair Hearing Officer

The hearing record remained open for the submission of additional documents from the Department. The Department submitted the documents, and on ██████████ 2023, the record closed.

The undersigned reopened the hearing record on ██████████, 2023, and requested additional documents from the Department. The Department submitted the requested documents on ██████████ 2023. The record remained open to give time for the Appellant to receive copies of all information, and on ██████████ 2023, the record closed.

STATEMENT OF THE ISSUES

The first issue is whether the Department correctly closed the Appellant's benefits under the SNAP program.

The second issue is whether the Department correctly calculated the Appellant's SNAP benefit of \$23.00 per month effective [REDACTED] 2023.

FINDINGS OF FACT

1. The Appellant is a recipient of SNAP benefits for a household of one person, himself. (*Appellant's Testimony*)
2. The Appellant is [REDACTED] years old ([REDACTED]). (*Appellant's Testimony*)
3. On [REDACTED], 2022, the Department received the Appellant's SNAP renewal form on which he reported a monthly mortgage expense of \$140.09. He did not report any other shelter expenses. The Department updated the Appellant's mortgage expense of \$140.09, effective [REDACTED] 2022. (*Appellant's Testimony, Department's Testimony, Exhibit 1: W1ER Renewal Form [REDACTED]/22*)
4. For the period of [REDACTED] 2022 through [REDACTED] 2023, the Department issued the Appellant a SNAP benefit of \$108.00 per month. (*Exhibit 10: Benefit Issuance Search [REDACTED], Exhibit 11: EBT Transaction History*)
5. Effective [REDACTED] 2022, the Appellant receives a monthly gross Social Security retirement ("SSA") benefit of \$870.90. Social Security deducts \$10.00 per month from his SSA benefit for overpayment recovery, therefore, the Department counts \$860.90 (\$870.90 - \$10). (*Appellant's Testimony, Exhibit 5: SOLQ-I Results, Exhibit 4: Federal SNAP Income Test [REDACTED]*)
6. The Appellant receives a private pension benefit of \$627.38 per month. (*Appellant's Testimony, Exhibit 9: Pension Benefit Statement*)
7. On [REDACTED] 2023, the Department noticed that the Appellant's SSA income amount had not been updated to the amount he began receiving in [REDACTED] 2022. The Department updated the Appellant's SSA income of \$860.90 and issued an NOA to the Appellant informing him that he will receive a SNAP benefit of \$23.00 per month for the period of [REDACTED] 2023, through [REDACTED] 2025. (*Exhibit 6: NOA [REDACTED] 23*)
8. The Department determined the Appellant is eligible for the Medicare Savings Program ("MSP") effective [REDACTED], 2023. The Department terminated the Appellant's out-of-pocket Medicare Part B Premium expense of \$164.90, as it would be covered by the MSP effective [REDACTED] 2023. The Appellant has no other out-of-pocket medical expenses totaling over \$35.00 per month. (*Department's Testimony, Appellant's*

Testimony)

9. The Appellant does not pay a child support expense. (*Appellant's Testimony*)
10. The Department did not close the Appellant's SNAP benefit, it remains active and is \$23.00 per month effective [REDACTED] 2023. (*Department's Testimony, Exhibit 6*)
11. The Appellant reported during the hearing that his monthly mortgage expense is now \$217.93 and that he pays a yearly property tax expense that he estimated to be between \$3,000 - \$4,000. The Appellant reported during the hearing that he has a housemate that pays him \$700.00 per month in rental income. The Department did not know this information prior to the hearing. (*Appellant's Testimony, Department's Testimony*)
12. The issuance of this decision is timely under Title 7 of the Code of Federal Regulations ("C.F.R") § 273.15 (c) (1) which provides that the agency shall issue a decision within 60 days of receipt of a request for a fair hearing. The Appellant requested an administrative hearing on [REDACTED], 2023. OLCRAH held an administrative hearing on [REDACTED] 2023. The hearing record remained open for one extra day so the Department could submit additional documents. The Department submitted documents on [REDACTED] 2023, and the record closed that day. The undersigned reopened the hearing record on [REDACTED], 2023, and requested the Department provide additional information. The Department provided the requested information on [REDACTED] 2023, and the undersigned forwarded copies of all information to the Appellant, and the hearing record closed on [REDACTED], 2023. Due to the extra delay of [REDACTED] days, this decision is due no later than [REDACTED] 2023. (*Hearing Record*)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes provides that 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.

The Department has the authority to review the Appellant's SNAP eligibility, determine benefit amounts, and administer benefits.

2. 7 C.F.R. § 271.2 states that elderly or disabled member means a member of the household who:
 - 1) Is 60 years of age or older;
 - 2) Receives Supplemental Security Income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI

of the Social Security Act;

- 3) Receives federally or state administered supplements under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act;

The Department correctly determined that the Appellant meets the definition of elderly for purposes of SNAP eligibility.

3. 7 C.F.R. § 273.9(a) provides, in relevant part, as follows:

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. Household's which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Household's which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible are 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 §673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

The Department correctly determined that the Appellant is not subject to the gross income eligibility standards as he is elderly.

4. 7 C.F.R. § 273.9(b) states that household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

7 C.F.R. § 273.9(b)(2) provides 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.
- (ii) Annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation including any amounts deducted to repay

claims for intentional program violations as provided in § 272.12; old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

7 C.F.R. §273.9(b)(2)(ii) and (b)(5)(i) & (c)(8) instruct the Department to count Social Security Benefits as unearned income. Furthermore, the Department is instructed to count the gross amount even if Social Security tax or Medicare premium is withheld.

7 C.F.R. § 273.9(b)(5)(i) provides income should not include moneys withheld from an assistance payment, earned income, or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under paragraph (c) of this section. However, moneys withheld from assistance from another program, as specified in § 273.11(k), shall be included as income.

7 C.F.R. § 273.10(c)(1)(ii) provides in part that 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.

The Department correctly determined the Appellant's total monthly gross SSA benefit is \$860.90 (\$870.90 - \$10.00 overpayment recovery) and considered it as unearned income in the calculation of SNAP benefits.

The Department correctly determined the Appellant's private pension income is \$627.38 per month and considered it as unearned income in the calculation of SNAP benefits.

The Department correctly calculated the Appellant's total monthly gross unearned income as \$1488.28 (SSA \$860.90 + \$627.38).

5. 7 C.F.R. § 273.9(d)(1)(i) provides for the standard deduction. *48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands*. 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 determined the Appellant is eligible for the standard deduction for a household of one person, which is \$193.00, effective October 1, 2022.

6. 7 C.F.R. § 273.9(d)(6)(ii) provides the following: *Excess shelter deduction*. Monthly shelter expenses 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. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. 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.

The Department correctly determined that the Appellant is not subject to the shelter cap because he is elderly.

7. 7 C.F.R. §273.9(d)(6)(iii) provides in relevant part for the following: *Standard utility allowances*. (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);

The Department correctly determined that the Appellant is eligible for the SUA, which is \$921.00, effective October 1, 2022.

8. 7 C.F.R. § 273.13(a) provides for notice of adverse action. Prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken.

(1) The notice of adverse action shall be considered timely if the advance notice period conforms to that period of time defined by the State agency as an adequate notice period for its public assistance caseload, provided that the period includes at least 10 days from the date the notice is mailed to the date upon which the action becomes effective. Also, if the adverse notice period ends on a weekend or holiday, and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the State agency shall consider the request timely received.

The Department correctly provided 10 days' notice of the adverse action by issuing an NOA to the Appellant on ██████████ 2023, informing him that his SNAP benefit decreased to \$23.00 per month effective ██████████ 2023.

9. 7 C.F.R. § 273.10(e)(1)(i) provides the following: *Calculating net income and benefit levels-(1) Net monthly income.* To determine a household's net monthly income, the State agency shall:

- A. Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with §273.11(a)(2)(iii).
- B. Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with §273.9(c)(17), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.
- C. Subtract the standard deduction.
- D. If the household is entitled to an excess medical deduction as provided in §273.9(d)(3), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.
- E. Subtract allowable monthly dependent care expenses if, any, as specified under § 273.9(d)(4) for each dependent.
- F. If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with § 273.9(d)(5), subtract allowable monthly child support payments in accordance with § 273.9(d)(5).
- G. Subtract the homeless shelter deduction, if any, up to the maximum of \$143.

- H. Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.
- I. Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

7 C.F.R. § 273.10(e)(2)(ii)(A) provides the following: 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 in one of the following ways: (1) "The State agency shall round the 30 percent of net income up to the nearest higher dollar".

7 C.F.R. § 273.10(e)(4) provides the following: Thrifty 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.

7 C.F.R. § 273.10 (e)(2)(ii)(c) provides that except during an initial month, all eligible one-person and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The minimum benefit is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar.

The Department correctly determined that the minimum monthly SNAP allotment is \$23.00 (maximum monthly SNAP allotment of \$281.00 x 8%).

The Department calculated the Appellant's SNAP benefit for [REDACTED] 2023 as follows:

SNAP BENEFIT CALCULATION

INCOME	
Unearned income SSA + Private Pension	\$860.90 <u>+\$627.38</u> \$1488.28
- Standard deduction	<u>-\$193.00</u>
=Adjusted gross income	\$1295.28
SHELTER COSTS	
Mortgage	\$140.09
+ SUA	<u>\$921.00</u>
Total shelter costs	\$1061.09
SHELTER HARDSHIP	
Shelter costs	\$1061.09
Less 50% of adjusted gross income	<u>-\$647.64</u>
= Total shelter hardship (max \$624.00 if not disabled or elderly)	\$413.45
ADJUSTED NET INCOME	
Adjusted gross income	\$1295.28
Less shelter hardship	<u>-\$413.45</u>
Net Adjusted Income (NAI)	\$881.83
BENEFIT CALCULATION	
Thrifty Food Plan for one person	\$281.00
Less 30% of NAI (rounded up to nearest whole dollar)	<u>-\$264.55</u>
Benefit amount	\$16.45
SNAP award (minimum amount)	\$23.00

The Department correctly determined that the Appellant is entitled to the minimum SNAP benefit of \$23.00 per month effective [REDACTED] 2023.

10. Uniform Policy Manual (“UPM”) § 1570.25 (C)(2)(k) provides as follows:
The Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department’s policies and regulations, to resolve the dispute.

UPM § 1570.25 (F)(1)(c) provides for matters considered at the Fair Hearing. The Department considers the following issues: an action by the Department or failure by the Department to act, within the appropriate time limits described in this section, on

the application for benefits, including discontinuance, termination, or reduction of benefits.

The Department did not close the Appellant's SNAP benefit, therefore, there is no issue on which to rule. "When the actions of the parties themselves cause a settling of their differences, a case becomes moot." McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

DISCUSSION

The Appellant stated during the hearing that he believed the Department had closed his SNAP benefit but did not have a clear reason for thinking this as no NOA was issued to him. The Appellant believed that he hadn't received his SNAP benefit for the current month, however, he could not say when the last time he had checked his EBT card balance was. The Appellant was unsure of the actual SNAP benefit amount that he was receiving.

The Department stated in the hearing summary, and at the hearing, that it had issued the Appellant a monthly SNAP benefit of \$29.00 from [REDACTED] 2022 through [REDACTED] 2023. The Department later clarified that it had actually issued the Appellant a monthly SNAP benefit of \$108.00 for the period of [REDACTED] through [REDACTED] 2023, and it provided benefit issuance search results and a printout of all EBT deposits and transactions for that period as verification.

The Department confirmed that it had not closed the Appellant's SNAP benefit and that it had not issued the Appellant a notice stating such. The Department provided proof that the Appellant's SNAP benefit was issued each month from [REDACTED] 2022, through [REDACTED] 2023.

During the hearing, the Appellant reported new information regarding rental income that he is now receiving and a new mortgage expense amount. For the purpose of this hearing, the undersigned reviewed all information that the Appellant had provided to the Department prior to the hearing. Any new information that was reported during the hearing is not relevant to this decision.

DECISION

For the Issue of the SNAP benefit closure, the Appellant's appeal is **DISMISSED** as moot.

For the issue of the SNAP benefit amount, the Appellant's appeal is **DENIED.**

Kristin Haggan

Kristin Haggan
Fair Hearing Officer

CC: Sarah Chmielecki, SSOM, New Haven Regional Office
Tim Latifi, SSOM, New Haven Regional Office
Ralph Filek, SSOM, New Haven Regional Office
Andrena Wilson, Hearing Liaison, New Haven Regional Office
Jessica Burgos, Eligibility Worker, New Haven 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, law, and 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 the Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to the 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 if 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 her designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and 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.