

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

████████████████████  
SIGNATURE CONFIRMATION

CASE # ██████████  
CLIENT# ██████████  
REQUEST# 218299

NOTICE OF DECISION  
PARTY

████████████████████  
████████████████████  
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PROCEDURAL BACKGROUND

On ██████████ the Department of Social Services (the "Department") issued ██████████  
██████████ (the "Appellant") a Notice of Action ("NOA") advising the Appellant of her  
eligibility for benefits under the Supplemental Nutrition Assistance Program ("SNAP") for  
\$0.00 for ██████████ and \$64.00 per month, effective ██████████

On ██████████ the Department issued the Appellant a NOA advising the Appellant of  
her eligibility for benefits under the SNAP for \$23.00 per month, effective ██████████

On ██████████ the Appellant requested an administrative hearing because she  
disagrees with the amount of her SNAP benefits.

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

On ██████████ in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184  
inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic  
administrative hearing. The following individuals participated in the hearing:

██████████ Appellant  
Carmen Ferrer, Department's Representative  
Sara Hart, Hearing Officer

The hearing record remained open for the Department to submit evidence and to provide the Appellant an opportunity to respond. Evidence was received from the Department and the hearing record closed on [REDACTED] with no further comment from the Appellant.

### **STATEMENT OF THE ISSUE**

The issue is whether the Department's calculation of the Appellant's [REDACTED] [REDACTED], and [REDACTED] SNAP benefit amounts is correct.

### **FINDINGS OF FACT**

1. On [REDACTED] the Appellant submitted an online application ("ONAP") for SNAP benefits. (*Exhibit 11: ONAP*)
2. The Appellant's household consists of the Appellant, age [REDACTED] (DOB [REDACTED]), and her [REDACTED]-year-old child (DOB [REDACTED]), [REDACTED] (the "Child"). (*Appellant's Testimony, Hearing Record*)
3. The Appellant is disabled and receives \$1,782.00 per month in Social Security Disability ("SSDI") payments. (*Appellant's Testimony*)
4. The Child attends [REDACTED] ("[REDACTED]") as a full-time undergraduate higher education student. (*Appellant's Testimony, Exhibit 12: W1471 and Enrollment Verification*)
5. The Child does not have a meal plan at school and commutes to [REDACTED]. (*Appellant's Testimony*)
6. The Child is not disabled and is not currently employed. He does not participate in federal or state-sponsored work-study. (*Appellant's Testimony*)
7. The Child's expected financial contribution ("EFC") to the cost of his higher education for the [REDACTED] school year was \$0.00. (*Exhibit 13: My FASFA screenshots, Appellant's Testimony*)
8. The Appellant's rent was \$299.00 in [REDACTED] and \$268.00, effective [REDACTED] (*Appellant's Testimony*)
9. The Appellant is responsible for paying separate heating and cooling costs. The Department provided the Standard Utility Allowance ("SUA") credit. (*Hearing Record*)
10. The Appellant does not incur any out-of-pocket medical expenses. (*Appellant's Testimony*)

11. The Appellant is eligible for the Medicare Savings Program, which pays the cost of the Appellant's Medicare B premium. (*Department's Testimony*)
12. On [REDACTED] the Department issued a NOA to the Appellant advising that her SNAP benefits would be \$0.00 for the benefit period start date of [REDACTED] through [REDACTED] and \$64.00 per month, effective [REDACTED]. The NOA listed the Appellant as the sole eligible household member and noted that the Child was not eligible for SNAP because he did not meet the requirements for a student. (*Exhibit 2: [REDACTED]*)
13. On [REDACTED] the Department issued a second NOA to the Appellant advising that her SNAP benefits would be \$23.00, effective [REDACTED]. The NOA listed the Child as an ineligible member because he did not meet the requirements for a student. (*Exhibit 3: NOA [REDACTED]*)
14. On [REDACTED] the Appellant requested a fair hearing to contest the amount of her SNAP benefits and the Department's determination that the Child was an ineligible higher education student. (*Hearing Record*)
15. On [REDACTED] the Department determined that the Child was an eligible higher-education student through relaxed student exemptions under the Public Health Emergency ("PHE"). The Department further determined that a technological issue with the Department's Impact eligibility system resulted in the incorrect omission of the Child from the Appellant's SNAP household and benefit computation. (*Department's Testimony*)
16. On [REDACTED] the Department's hearing liaison informed the Department's technology department of the issue with the Department's Impact system, requesting correction of the error. (*Department's Testimony*)
17. 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 State 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] with this decision due by [REDACTED]. The hearing record remained open for fourteen additional days; therefore, this decision is due no later than [REDACTED]. (*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 and determine benefit amounts.**

2. 7 C.F.R. § 273.2(c)(4)(iv) provides for the application date and states the date of application is the date the application is received by the State agency. State agencies must document the application date on the application. If the application is received outside normal business hours the State agency will consider the date of application the next business day.

**The hearing record lacks evidence of a [REDACTED] SNAP application date. The evidence provided by the Department supports that the Appellant applied for SNAP on [REDACTED]**

3. 7 C.F.R. § 273.1(a) provides for household concept and states that a household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section.

7 C.F.R. § 273.1(b)(1) 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.

- ii. A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).

**The Department correctly determined the Appellant's household size of two members, including the Appellant and her son.**

3. 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)(iii) provides unearned income shall include but not be limited to support or alimony payments made directly to the household from non-household members.

**The Department correctly considered the Appellant's SSDI unearned income in the calculation of SNAP benefits.**

4. 7 C.F.R. § 273.10(c)(1)(i) provides that 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 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 household's income equaled \$1,782.00 per month.**

5. 7 C.F.R. § 273.5(a) provides an individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in paragraph (b) of this section. An individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

7 C.F.R. § 273.5(c) provides the enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

**The Department correctly determined that the Child is continually enrolled at least half-time as a higher education student at [REDACTED].**

6. 7 C.F.R. § 273.5(b) provides that to be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria:(1) be age 17 or younger or age 50 or older; (2) be physically or mentally unfit; (3) be receiving Temporary Assistance for Needy Families under Title IV of the Social Security Act; (4) be enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program; (5) Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours. The State agency may choose to determine compliance with this requirement by calculating whether the student worked an average of 20 hours per week over the period of a month, quarter, trimester or semester. State agencies may choose to exclude hours accrued during academic breaks that do not exceed

one month. A state agency that chooses to average student work hours must specify this choice and specify the time period over which the work hours will be averaged in its State plan of operation; (6) Be participating in a State or Federally financed work-study program during the regular school year. (1) To qualify under this provision, the student must be approved for work study at the time of application for SNAP benefits, the work-study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins or the month work study is approved, whichever is later. Once begun, the exemption shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment. (ii) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work-study during the break. (7) Be participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer; (8) be responsible for the care of a dependent household member under the age of 6; (9) Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when the State agency has determined that adequate child care is not available to enable the student to attend class and comply with the work requirements of paragraph (a)(5) or (b) (6) of this section. (10) Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12. (i) This provision applies in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same SNAP household as the child. (ii) If no natural, adoptive or stepparent is in the same SNAP household as the child, another fulltime student in the same SNAP household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse. (11) Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in paragraphs (b)(11)(i) through (b)(11)(iv) of this section. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of the employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify to the exemption. The programs are (i) A program under the Job Training Partnership Act of 1974 (29 U.S. C. 1501, et seq.); (ii) An employment and training program under § 273.7, subject to the condition that the course or program of study, as determined by the State agency; (a) Is part of a program of career and technical education as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S. C. 2302) designed to be completed in not more than 4 years at an institution of higher education as defined in section 102 of the Higher Education Act of 1965 (20U.S.C. 2296; or (B) is limited to remedial courses, basic adult education, literacy, or English

as a second language. (iii) A program under section 236 of the Trade Act of 1974 (19 U.S.C.2296; or (IV) An employment and training program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in §273.7(e)(1). Using the criteria in § 273.7(e)1), State agencies shall make the determinations as to whether or not the programs qualify.

**The Department correctly determined that the Child does not meet any of the student exemptions under 7 C.F.R. § 273.5(b).**

7. PUBLIC LAW 116–260—DEC. 27, 2020 CONSOLIDATED APPROPRIATIONS ACT, 2021 Section (e) provides for provisions for impacted students and states that (1) IN GENERAL.—Notwithstanding any other provision of law, not later than 20 days after the date of the enactment of this Act, eligibility for supplemental nutrition assistance program benefits shall not be limited under section 6(e) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(e)) for an individual who— (A) is enrolled at least half-time in an institution of higher education; and (B)(i) is eligible to participate in a State or federally financed work study program during the regular school year as determined by the institution of higher education; or (ii) in the current academic year, has an expected family contribution of \$0 as determined in accordance with part F of title IV of the Higher Education Act of 195 (20 U.S.C. 1087kk et. seq.). (2) SUNSET.— (A) INITIAL APPLICATIONS.—The eligibility standards authorized under paragraph (1) shall be in effect for initial applications for the supplemental nutrition assistance program until 30 days after the COVID–19 public health emergency is lifted. (B) RECERTIFICATIONS.—The eligibility standards authorized under paragraph (1) shall be in effect until the first recertification of a household beginning no earlier than 30 days after the COVID–19 public health emergency is lifted.

United States Department of Agriculture (“USDA”) memo dated October 12, 2022 provides for the end of Temporary Student Exemptions in the Consolidated Appropriations Act, 2021 for SNAP and states: *Under the CAA, States must stop applying the temporary exemptions at the household’s next recertification beginning no earlier than 30 days after the Federal PHE ends. This means that students recertifying in the first full calendar month that begins at least 30 days after the end of the PHE will no longer have the temporary exemptions applied to their case. For households recertifying after the Federal PHE is lifted but before the first full month beginning at least 30 days after the end of the Federal PHE, States will process applications using the temporary exemptions. States must base eligibility for the temporary student exemptions on the date the household applies for recertification, not the date of processing.*

**The Appellant’s submission of her SNAP application on [REDACTED] occurred prior to the ending of the PHE on [REDACTED] Because the Child**

**had an EFC of \$0, he met the eligible student criteria under the PHE expanded student exemptions.**

6. 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 eligible for the \$193.00 standard deduction.**

7. 7 C.F.R § 273.9(d)(6)(iii) provides in relevant part 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 the Appellant is entitled to the SUA, which is \$921.00.**

8. 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](http://www.fns.usda.gov/fsp).

**The Department incorrectly calculated the Appellant's SNAP amount because it failed to include the Child as an eligible SNAP household member. The**

**Appellant's correct SNAP award cannot be established based on the hearing record.**

**DISCUSSION**

This decision does not confer the Child's eligibility for the SNAP, but rather orders the Department to further evaluate the Child's eligibility because he met expanded SNAP student exemptions under the PHE in place at the time of the Appellant's application.

**DECISION**

The Appellant's appeal is **GRANTED**.

**ORDER**

1. The Department shall reopen the Appellant's [REDACTED] SNAP application.
2. The Department shall add the Child to the Appellant's SNAP award, effective [REDACTED] as an eligible higher education student and continue to determine SNAP eligibility for the Appellant's household of 2 eligible members.
3. Compliance with this order is due to the undersigned no later than [REDACTED], and shall consist of an updated NOA and Impact SNAP Income Test Pages for [REDACTED] through [REDACTED]

  
\_\_\_\_\_  
Sara Hart  
Fair Hearing Officer

CC: Carmen Ferrer, Department Representative Stamford Regional Office  
Shahar Thadal, Operations Manager, Stamford 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.