

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

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Signature Confirmation

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Request #: 219373

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) increasing her Supplemental Nutritional Assistance Program (“SNAP”) benefits effective ██████████ 2023.

On ██████████, 2023, the Appellant requested an administrative hearing to contest the amount of her SNAP benefits.

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, 17-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals participated in the hearing:

████████████████████, Appellant’s Authorized Representative
Chris Filek, Department’s Representative
Amy MacDonough, Hearing Officer

The hearing record remained open for the submission of additional evidence by both the Department and the Authorized Representative. On ██████████ 2023, both parties provided the requested information. On ██████████, 2023, the hearing record closed.

On [REDACTED], 2023, the undersigned reopened the hearing record to provide additional information as Fair Hearing Exhibit 1. On [REDACTED], 2023, the Appellant's AREP provided comment on the information, and the hearing record closed accordingly.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly calculated the Appellant's SNAP benefit amount.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old [Date of Birth: [REDACTED]] and a recipient of SNAP benefits for a household of one. (*AREP's Testimony; Exhibit 12: Notice of Action*)
2. [REDACTED] is the Appellant's son and Authorized Representative ("AREP"). (*AREP's Testimony; Department's Testimony*)
3. The Appellant's SNAP renewal cycle is from [REDACTED], 2022, through [REDACTED], 2025. (*Exhibit 12*)
4. The Appellant is disabled and receives Social Security Disability Insurance ("SSDI") income of \$1623.00 monthly. (*Department's Testimony; AREP's Testimony; Exhibit 4: SOLQ-I Results Details*)
5. The Appellant receives income from a rental property in the amount of \$1,050.00 monthly. The Appellant owns a duplex; she rents one (1) unit, and she resides in the other unit. (*AREP's Testimony; Department's Testimony; Exhibit 3: Rental Lease*)
6. The Appellant does not work 20 hours per week on the maintenance of the rental property. (*AREP's Testimony*)
7. The Appellant has a mortgage payment of \$1,577.19 monthly. The mortgage payment consists of \$407.80 taxes, \$167.58 insurance, \$497.94 principal, and \$503.87 interest. The Appellant pays for her heating and cooling separately. (*Exhibit 11: [REDACTED] Mortgage Statement; AREP's Testimony*)
8. The Appellant has medical expenses totaling less than \$35.00 monthly. (*AREP's Testimony; Exhibit 12*)
9. On [REDACTED], 2023, the AREP contacted the Department to report a monthly property tax of \$407.80 for the Appellant's home. (*Department's Testimony; Exhibit 8: Case Notes*)

10. The Department gave the Appellant credit for a monthly mortgage of \$1409.61. (*Exhibit 9: SNAP Computation Sheet, ██████████*)
11. On ██████████, 2023, the Department updated the shelter expense and issued a NOA to the Appellant indicating that her SNAP benefit would be \$107.00 monthly, effective ██████████ 2023. (*Department's Testimony; Exhibit 8; Exhibit 12*)
12. On ██████████, 2023, the Appellant requested an administrative hearing. (*Department's Testimony; Notice of Administrative Hearing*)
13. On ██████████ 2023, the Department reviewed the Appellant's SNAP benefit amount and determined the property tax information was incorrectly updated and determined the Appellant's SNAP benefit to be \$23.00, effective ██████████ 2023. (*Department's Testimony*)

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.

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

2. 7 C.F.R. § 273.1 provides for household concepts and states a household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section: (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others.

The Department correctly determined the Appellant as a household size of one.

3. 7 C.F.R. § 273.9 (a) provides that 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 contain an elderly or disabled member, shall meet the net income eligibility standards for the Food Stamp Program. 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 the Food Stamp Program. Households that are categorically eligible as 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 levels established in Section 673 (2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

7 C.F.R. § 271.2(11) provides for definitions and states in part that an elderly or disabled person is a recipient of interim assistance benefits pending the receipt of Supplemented Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits *provided* that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 16, subpart I, Determining Disability and Blindness as defined in Title XVI).

The Department correctly determined that the Appellant meets the definition of disabled for the purposes of SNAP eligibility; therefore, her household is subject to the SNAP net income standard.

4. 7 C.F.R. § 273.9(b)(2)(ii) provides for income and states unearned income shall include, but not be limited to 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)(1)(ii) provides for 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. Ownership of rental property shall be considered a self-employment enterprise; however, income derived from the rental property shall be considered earned income only if a member of the household is actively engaged in the management of the property at least an average of 20 hours a week. Payments from a roomer or boarder, except foster care boarders, shall also be considered self-employment income.

The Department correctly determined that SSDI is considered unearned income and counted in the calculation of the Appellant's SNAP benefit.

Because the Appellant does not spend 20 hours per week on management of the rental property, the rental income is considered as unearned income.

5. 7 C.F.R. § 273.11(a)(2)(i) provides for determining monthly income from self-employment and states for the period of time over which self-employment income 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.

6. 7 C.F.R. § 273.11(b)(1) provides for allowable cost of producing self-employment income and states allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor; stock; raw material; seed and fertilizer; payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; and taxes paid on income-producing property.

Monthly expenses:	Departments calculations	Corrected Calculations
Principal of mortgage	\$0	\$497.94
Mortgage interest (+)	\$503.87	\$503.87
Property insurance & taxes (+)	\$575.38	\$575.38
Total (=)	\$1,079.25	\$1,577.19
Divided by # of units (/)	2	2
Expense per unit (=)	\$539.63 (rounded up)	\$788.60 (rounded up)
Rental income		
(self-employment)	\$1,050.00	\$1,050.00
Minus expense for 1 unit (-)	\$539.63	\$788.60
Gross rental profit (=)	\$510.37	\$261.40

The Department incorrectly calculated the monthly expenses related to the Appellant's rental income. The Department excluded the payment made on the principal of the purchase price of this rental property.

The Appellant's rental income is \$261.40 per month.

7. 7 C.F.R. § 273.9(d)(1)(i) provides for standard deductions and states *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.

7 C.F.R. § 273.9(d)(1)(iii) provides for *Minimum deduction levels* and states notwithstanding paragraphs (d)(1)(i) and (d)(1)(ii) of this section, the standard deduction for FY 2009 for each household in the 48 States and the District of

Columbia, Alaska, Hawaii, Guam and the U.S. Virgin Islands shall not be less than \$144, \$246, \$203, \$289, and \$127, respectively. Beginning FY 2010 and each fiscal year thereafter, the amount of the minimum standard deduction is equal to the unrounded amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

The Department correctly subtracted the \$193.00 standard deduction from the Appellant's income.

8. 7 C.F.R. § 273.9(d)(6)(ii) provides in part for excess shelter deduction and states 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 the Appellant pays a mortgage of \$1,577.19 monthly; however, since the Appellant occupies half of the duplex, the Appellant is only entitled to half of the mortgage of \$788.59 as a shelter expense.

The Department incorrectly counted the property taxes twice when calculating the Appellant's shelter expense.

The Department correctly determined the Appellant is eligible for an uncapped shelter deduction based on disability.

9. 7 C.F.R. § 273.9(d)(6)(iii)(A) provides for standard utility allowances and states 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); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities. However, at its option, the State agency may include the excess heating and cooling costs of public housing residents in the LUA if it wishes to offer the lower standard to such households. The State agency may use different types of standards but cannot allow households the use of two standards that include the same expense. In States in which the cooling expense is minimal, the State agency may include the cooling expense in the electricity component. The State agency may vary the allowance by factors such as household size, geographical area, or season. Only utility costs identified in paragraph (d)(6)(ii)(C) of this section must be used in developing standards.

The Department correctly determined the Appellant to be eligible for the Standard Utility Allowance ("SUA") of \$921.00, effective October 1, 2022.

10. 7 C.F.R. §273.9(d)(3) provides in relevant part for the excess medical deduction and states that portion of medical expenses more than \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in § 271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

The Department correctly determined the Appellant is not entitled to a medical expense deduction as the expenses do not exceed \$35.00 per month.

11. 7 C.F.R. § 273.10(e)(4)(i) provides for Thrifty Food Plan (TFP) and maximum SNAP Allotments and states 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.

The TFP for a household of one is \$281.00, effective October 1, 2022.

12.7 C.F.R. § 273.10(e)(1)(i)(A)-(I) provides for calculating net income and benefit levels.

The Department used the following calculations for the period of [REDACTED] 2023.

	Department calculations	Corrected calculations
SSDI (+)	\$1,623.00	\$1,623.00
Rental Income (+)	<u>\$510.37</u>	<u>\$261.41</u>
Gross Monthly Income	\$2,133.37	\$1,884.41
Minus (-) Standard Deduction (household of one)	<u>\$193.00</u>	<u>\$193.00</u>
Total Adjusted Gross Monthly Income	\$1,940.37	\$1,691.41
Total multiplied (x) by .5 (50% Adjusted Gross Income)	\$970.185	\$845.70
Shelter Cost		
Mortgage	\$1409.61	\$788.60
Plus (+) Standard Utility Allowance (SUA)	<u>\$921.00</u>	<u>\$921.00</u>
Total Shelter Costs	\$2,330.61	\$1,709.60
Minus (-) 50% Adjusted Gross Income	<u>\$970.185</u>	<u>\$845.70</u>
Excess Shelter Costs	\$1,360.425	\$863.90
Total Shelter Deduction (shelter hardship cannot exceed \$624.00 unless AU has member 60 or older, or disabled)	\$1,360.42	\$863.90
Adjusted Gross Monthly Income	\$1,940.37	\$1,691.41
Minus (-) total Shelter Deduction	<u>\$1,360.42</u>	<u>\$863.90</u>
Total Net Monthly Income	\$579.95	\$827.51
Total Net Monthly Income multiplied (x) by .30	\$173.985 (rounded up to \$174.00)	\$248.25 (rounded up to \$249.00)
Thrifty Food Plan (household of one)	\$281.00	\$281.00

Minus (-) 30% Net Monthly Income	<u>\$174.00</u>	<u>\$249.00</u>
SNAP Allotment for Household (maximum amount \$281.00 / minimum amount \$23.00)	\$107.00	\$32.00

The Department incorrectly determined that the Appellant was entitled to \$107.00 in SNAP benefits.

The Appellant is entitled to \$32.00 per month in SNAP benefits.

13.7 C.F.R. § 273.9(a)(3) provides for the income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii. (i) 130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upwards as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary. (ii) The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding the results upward as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

7 C.F.R. § 273.9(a)(4) provides for the monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/snap

The Department correctly determined the SNAP net income limit for a household of one as \$1,133.00.

The Appellant's net income of \$845.70 is below the SNAP net income limit using the SSDI and rental income.

DISCUSSION

On [REDACTED], 2023, the Department updated the Appellant's property taxes as reported by the AREP, causing the Appellant's SNAP benefit to increase to \$107.00 monthly, effective [REDACTED] 2023. On that same day, [REDACTED] 2023, the Appellant requested an administrative hearing on her SNAP amount. The AREP disagrees with calculation of the rental property income and allowable deductions from the rental property.

According to the Code of Federal Regulations Title 7, section 273.11(b)(1), payments made on the principal of the purchase price of income-producing real estate is an allowable cost of producing self-employment income. The Department did not include a

portion of the mortgage principal in the calculation of the rental income deduction and instead used the full mortgage principal towards the Appellant's shelter expenses.

Allowing for the full shelter expense as well as the self-employment deduction would allow for the Appellant to receive the same deduction multiple times. The appellants mortgage shall be used in part for the self-employment deduction and in part for the shelter deduction to prevent the Department from reaching absurd results. The Connecticut Supreme Court has "often . . . stated that 'it is axiomatic that those who promulgate statutes . . . do not intend to promulgate statutes . . . that lead to absurd consequences or bizarre results.'" (Internal quotation marks omitted.) *State v. Courchesne*, 296 Conn. 622, 710, 998 A.2d 1 (2010); *see also Dias v. Grady*, 292 Conn. 350, 361, 972 A.2d 715 (2009). Accordingly, '[w]e construe a statute in a manner that will not . . . lead to absurd results.' (Internal quotation marks omitted.) *Kelly v. New Haven*, 275 Conn. 580, 616, 881 A.2d 978 (2005)." *Raftopol v. Ramey*, 299 Conn. 681, 703, 12 A.3d 783, 796 (2011); *see also Goldstar Med. Servs., Inc. v. Dep't of Soc. Servs.*, 288 Conn. 790, 803–04, 955 A.2d 15, 25 (2008) ("In construing a statute, common sense must be used and courts must assume that a reasonable and rational result was intended...Moreover, [w]e must avoid a construction that fails to attain a rational and sensible result that bears directly on the purpose the legislature sought to achieve. . . If there are two possible interpretations of a statute, we will adopt the more reasonable construction over one that is unreasonable." (Internal quotation marks omitted; internal citations omitted.))

DECISION

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

ORDER

1. The Department shall correct the rental property expense, countable rental income, and shelter expense to determine the Appellant's SNAP benefit for [REDACTED] 2023 and going forward.
2. Compliance with this order is due to the undersigned no later than [REDACTED], 2023.


 Amy MacDonough
 Fair Hearing Officer

CC: Brian Sexton, Operations Manager, DSS Middletown Regional Office
 Chris Filek, Fair Hearing Liaison, DSS Middletown 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.