

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 # [REDACTED]
Client ID # [REDACTED]
Request # 223369

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2023, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying his application for Supplemental Nutrition Assistance Program ("SNAP") benefits because his monthly gross income is above the program limit for his household size.

On [REDACTED] 2023, the Appellant requested an administrative hearing to contest the Department's discontinuance of his SNAP benefits.

On [REDACTED] 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED], 2023.

On [REDACTED] 2023, in accordance with sections 17b-60, 17b-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:

[REDACTED], Appellant
Garfield White, Department's Representative
Kristin Haggan, Fair Hearing Officer

The hearing record remained open for an additional six days to allow time for the Appellant and the Department to submit further documentation. On [REDACTED] 2023, the Appellant submitted verification of his full-time college enrollment status, and on [REDACTED], 2023, the Department submitted verification of the Appellant's income and manual SNAP calculation forms. On [REDACTED] 2023, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for SNAP benefits due to having a monthly gross income above the program limit.

FINDINGS OF FACT

1. On [REDACTED] 2023, the Department received an Online Application ("ONAP") for SNAP benefits from the Appellant for a household of one person. (*Exhibit 2: ONAP*)
2. The Appellant is [REDACTED] years old (DOB: [REDACTED]) and is not disabled. (*Hearing Record, Appellant's testimony*)
3. The Appellant pays a monthly mortgage expense of \$2507.13, which includes real estate taxes and homeowner's insurance. (*Appellant's Testimony, Exhibit 14: Mortgage Loan Billing Statement, Exhibit 15: Mortgage Loan Payment Form*)
4. The Appellant owns a three-family home. The Appellant lives in one of the units and he rents a second unit for which he receives \$2100.00 per month of rental property income. The third unit is not fit to live in and remains vacant. The Appellant spends 2 hours per month working on maintaining the property. (*Appellant's Testimony, Exhibit 13: Rental Property Lease*)
5. The Department counted the Appellant's rental income of \$2100 without any income deductions. (*Exhibit 7: NOA 9/18/23, Exhibit 18: Federal SNAP Income Test*)
6. The Appellant is a full-time college student at the [REDACTED]
[REDACTED] He receives non-federal grants, loans, or scholarships. The Appellant does not receive a student meal plan. (*Exhibit 10: Educational Income and Expense Form, Exhibit A: Letter from [REDACTED]*)
7. The Department did not verify the Appellant's student income. (*Hearing Record*)
8. The Appellant does not pay child support or daycare expenses. (*Appellant's Testimony*)
9. The Appellant works for [REDACTED]. He received the following pays: [REDACTED]/23 \$193.52 and [REDACTED]/23 \$381.00. He is currently working per diem and has not received any pay since [REDACTED], 2023. (*Exhibit 20: Theworknumber.com Wage Verification, Appellant's Testimony*)

10. The Appellant works for [REDACTED]. He received the following pay: [REDACTED] 1/23 \$366.16, [REDACTED] 1/23 \$632.96, [REDACTED] 1/23 \$448.96, [REDACTED] 1/23 \$248.03. (*Exhibit 9: [REDACTED] Wage Stubs,*)
11. On [REDACTED], 2023, the Appellant contacted the Department and completed the phone interview. The SNAP application remained pending for verification of the Appellant's rental property income. (*Exhibit 16: Case Notes*)
12. On [REDACTED] 2023, the Department issued the Appellant an NOA informing him that it was denying his application for SNAP benefits because he did not return all the requested verifications. (*Exhibit 6: NOA [REDACTED] /23*)
13. On [REDACTED] 2023, the Department reviewed a rental property lease that the Appellant provided as proof of his rental property income of \$2100 per month. The Department reopened the Appellant's SNAP application and updated the Appellant's income and expenses. The Department issued the Appellant an NOA informing him that it was denying his application for SNAP benefits as his household was determined to be over the gross income limit for a household of one person. (*Exhibit 7: NOA [REDACTED] /23, Exhibit 13*)
14. 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. The hearing was held on [REDACTED], 2023, and the record remained open for an additional six days to allow the Department and the Appellant to submit further documentation; therefore, this decision is due no later than [REDACTED], 2023. (*Hearing Record*)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2(7) 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 to determine whether his household meets the program's eligibility requirements.

2. 7 C.F.R. § 273.2(e) (2) provides the State agency may use a telephone interview instead of the face-to-face interview required in paragraph (e)(1) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State

agency must offer to the household to conduct the interview by telephone. The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

The Department completed the interview requirement with the Appellant by telephone.

3. 7 C.F.R. § 273.1(a) provides for Household concept and provides that a household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:
 - (1) An individual living alone;
 - (2) An individual living with others, but customarily purchasing food and preparing meals for consumption separate or apart from others ; or
 - (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

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

4. 7 C.F.R. § 273.2 (j) (2) (i) provides the following households are categorically eligible for SNAP benefits unless the entire household is institutionalized as defined in §273.1(e) or disqualified for any reason from receiving SNAP benefits. (E) any household in which all members receive or are authorized to receive PA and/or SSI benefits in accordance with paragraphs (j)(2)(i)(A) through (j)(2)(i)(D) of this section.

7 C.F.R. § 273.9 (a) provides that participation in the Program shall be limited to those households whose income incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households that 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 defines an elderly or disabled member as a member of a 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 supplemental benefits 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 the Appellant's household does not contain an elderly or disabled member, is not categorically eligible for SNAP benefits, and must meet both the net and gross income eligibility standards.

5. 7 C.F.R. § 273.9 (a) (1) provides the gross income eligibility standards for SNAP shall be as follows: (i) 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) (4) provides that the monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS website, at www.fns.usda.gov/snap.

Effective June 19, 2009, the Department implemented SNAP changes referred to as Expanded Categorical Eligibility ("ECE").

Effective October 1, 2022, the gross income limit for the SNAP increased to 200% of the FPL for SNAP households that do not contain an elderly or disabled member.

The Department correctly used the income limit of \$2265.00 for a household of one person (200% of the FPL for a household of one member effective October 1, 2022, to September 30, 2023) in its eligibility determination.

6. 7 C.F.R. § 273.9 (b) provides for the definition of income. (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. 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 the Appellant's wages from his jobs at [REDACTED] and [REDACTED] are considered earned income.

The Department correctly determined that the Appellant's rental property income is not considered earned income because he does not spend an average of at least 20 hours per week actively engaged in the management of the property.

7. 7 C.F.R. § 273.10 (c)(1)(ii) provides 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. 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. Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The State agency shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the State agency automatically attribute to the household the amounts of any past income. The State agency shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

7 C.F.R. § 273.10 (c) provides for determining income—(1) *Anticipating income*. (i) 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 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) (2) (i) provides for converting income into monthly amounts. Income anticipated during the certification period shall be counted as income only in the month it is expected to be received unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

The Department correctly calculated the Appellant's monthly gross earned income from his job at [REDACTED] as \$749.26 using the two most recent bi-weekly wage stubs that the Appellant provided [REDACTED] 8/23 \$448.96 + [REDACTED]/23 \$248.03 = \$696.99 / 2 = \$348.49 x 2.15 = \$749.26).

The Department correctly calculated the Appellant's monthly gross earned income of \$617.61 from his job at [REDACTED] based on the information the Appellant reported at the time of his application and interview, as well as the information obtained from Theworknumber.com [REDACTED]/23 \$193.52 + [REDACTED]/23 \$381.00 = \$574.52 / 2 = \$287.26 x 2.15 = \$617.61).

The Department correctly calculated the Appellant's total monthly gross earned income as \$1366.87 (\$749.26 [REDACTED] + \$617.61 [REDACTED] = \$1366.87)

8. 7 C.F.R. § 273.9(b)(2)(ii) provides 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. § 273.11 (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 income received by the household to determine total monthly income.

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	\$437.38	\$437.38
+ Mortgage Interest	\$1690.51	\$1690.51
+ Property Insurance & Taxes	\$379.24	\$379.24
Total =	\$2507.13	\$2507.13
/ Divided by # of units	2	3
Expense per unit =	\$1253.57	\$835.71
Allowable expenses for property (non-rented units)		X2 =\$1671.42
Rental Income (self-employment)	\$2100.00	\$2100.00
- Minus expense for 2 units	0	\$1671.42
Countable Rental Property Income=	\$2100.00	\$ 428.58

The Department incorrectly considered \$2100 to be the Appellant's countable monthly rental property income. The Department counted the entire rental income that is paid to the Appellant without considering expenses such as mortgage interest, property insurance, and taxes.

The Appellant's rental income expenses are based on the Appellant's mortgage expense, mortgage interest, property taxes, and property insurance for the two non-rental units. The countable monthly income from his rental property is \$428.58.

The Department incorrectly calculated the Appellant's total monthly gross income as \$3466.87 (earned income of \$1366.87 + rental property income of \$2100.00 = \$3466.87).

The Appellant's correct verified monthly income is \$1795.45 (earned income of \$1366.87 + rental income of \$428.58).

The Department has not verified whether the Appellant has any countable student income; therefore, the Department incorrectly determined that the Appellant's monthly income exceeds the gross income limit of \$2265.00.

DISCUSSION

The Department incorrectly considered the Appellant's total monthly rental property income of \$2100.00 without calculating the cost of doing business derived from a rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week. The Department did not consider expenses such as mortgage interest, property taxes, and property insurance.

The Department's W1348 request to the Appellant was vague in its request for college tuition/income verifications. The W1348 requested "proof of school attendance" and "school letter or records, financial aid statement". The Department did not specify that the Appellant must provide verification of his current semester's tuition expenses, student loans, grants, and scholarships. The Appellant attempted to provide school documents but was confused about what exactly he needed to provide due to the lack of specific information on the W1348. The Department overlooked the fact that the Appellant had not provided verification of his tuition expense and student income when it reopened the Appellant's SNAP application and processed it on [REDACTED] 2023, therefore, the Appellant's countable educational income amount is still undetermined.

The Appellant reported at the hearing that his job at [REDACTED] is no longer considered "bi-weekly" but is now considered "per diem". The Appellant stated that he did not work at all in the month of [REDACTED] 2023 and that he will only be working one weekend per month beginning in [REDACTED] 2023. The Department provided Theworknumber.com printout dated [REDACTED]/23 to the undersigned showing that the Appellant had not received any wages from [REDACTED] 1th since [REDACTED]/23. The Appellant's income from this employer should be treated as "per diem" income for ongoing months.

The Department should also review and consider any other household expenses such as water, sewer, and trash when calculating the amount of the Appellant's SNAP benefits.

DECISION

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

ORDER

- 1) The Department is ordered to reopen the Appellant's SNAP application and request verification of the Appellant's household shelter expenses, current earned income, college tuition expenses and student loans, grants, or scholarships for the current semester and any other verifications needed to determine eligibility.
- 2) The Department shall consider the Appellant's mortgage expenses as stated above when calculating his rental income.
- 3) No later than 7 days from the date of this decision, the Department shall submit compliance that it has reopened the Appellant's application and sent the Appellant a request for verification of information needed to establish eligibility.

Kristin Haggan
Kristin Haggan
Hearing Officer

CC: Josephine Savastra, SSOM, DSS, Hartford Office
Lindsey Collins, SSOM, DSS, Hartford Office
Mathew Kalarickal, SSOM, DSS, Hartford Office
David Mazzone, SSOM, DSS, Hartford Office
Wilfredo Medina – FH Liaison Supervisor
Garfield White, Fair Hearing Liaison, DSS, Hartford Office
Tashima Bowe-Wilson, Fair Hearing Liaison, DSS, Hartford 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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

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 to 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 under §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.