



The Delaware Code (31 Del. C. §520) provides for judicial review of hearing decisions. In order to have a review of this decision in Court, a notice of appeal must be filed with the clerk (Prothonotary) of the Superior Court within 30 days of the date of the decision. An appeal may result in a reversal of the decision. Readers are directed to notify the DSS Hearing Office, P.O. Box 906, New Castle, DE 19720 of any formal errors in the text so that corrections can be made.

DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

ADMINISTRATIVE FAIR HEARING

LOG NUMBER: 6-1-2021-002

Decision Date: May 28, 2021

State Agency Appearances: Rotante Tunstall – Presenter, Division of Social Services (“DSS”), Appellee;
Donna Frazier – Witness, Division of Social Services (“DSS”), Appellee.

I – Statement of the Issues

Appellant opposes the decision by the Division of Social Services (“DSS”) to deny her Food Benefits, also known as SNAP (Supplemental Nutrition Assistance Program) benefits.

The State asserts that the Appellant’s benefits were properly closed because her household income exceeds the eligibility limit for the program.

II – Procedural History

On April 1, 2021, DSS sent to the Appellant a Notice to Deny Your Food Benefits. State’s Exhibit 8. The Appellant requested a Fair Hearing by email dated April 2, 2021. State’s Exhibit 1.

The Appellant was notified by Certified Mail dated April 8, 2021, that a Fair Hearing was scheduled for April 23. The notice advised that the hearing would be conducted by telephone conference. The telephone conference procedure was implemented due to the COVID-19 pandemic and the consequent State of Emergency in Delaware.

The Hearing was held in the manner set forth in the notice. This is the Hearing Officer’s decision.

III. Statement of Facts

The State asserts that the Appellant’s SNAP benefits were denied because her income was too high.

The Appellant submitted a completed Food Benefit Renewal on March 22, 2021. State's Exhibit 2. She submitted 3 paystubs from Adams Four Grocer, two of which are date-stamped as received by DSS on March 22, 2021. State's Exhibit 3. The paystubs showed gross weekly income of \$316.88 (3/5/2021); \$260.81 (3/12/2021); and \$351 (2/19/2021). *Id.* She also submitted a letter from her landlord verifying her rent of \$600 and her Delaware identification card. State's Exhibits 4 and 5. Both of these items were date-stamped March 22, 2021. *Id.*

She was interviewed the following day, as shown in the DSS Interview Checklist. State's Exhibit 6. After the interview, Ms. Frazier sent out a Verification Request for 2 additional paystubs. State's Exhibit 7. The Appellant subsequently provided a paystub for \$387.56 (3/26/2021), according to Ms. Frazier, although that was not provided as an exhibit in the hearing.

Using the four (4) paystubs submitted, the State determined that the Appellant's monthly income from employment is \$1,424.84. State's Exhibit 8. First, the State took the average weekly gross income (also referred to as representative weekly amount) from all four paystubs and multiplied that amount by 4.33 to account for the average number of weeks in a month. This gave the monthly gross employment income. The State added SSI income of \$794 for total monthly gross income of \$2,218.84. State's Exhibit 8. The Appellant had reported SSI income on her renewal form and at her interview, and the State verified the amount using a government data exchange program.

The State then calculated the Appellant's net income to determine her eligibility. First, it deducted standard deduction of \$167 and a work deduction of \$284.97 (20% of employment wages). After those deductions, the Appellant's Adjusted Income was \$1,766.87. Her only shelter/utility expense was her \$600 rent. *Id.* She did not have any utility expenses, Ms. Frazier said. Specifically, the rent verification from the Appellant's landlord stated that she pays her own food, phone, hygiene and laundry. State's Exhibit 4. During the interview, the Appellant did not report that she pays phone or other utilities, and she did not provide a phone bill or other utility bills according to Ms. Frazier. Even if the phone bill were added to the shelter/utility expenses, Ms. Frazier concluded it would not have changed the eligibility determination.

Because the Appellant's rent of \$600 did not exceed 50% of her Adjusted Income (\$883.44), she did not receive an excess shelter deduction. Therefore, her Net Income was the same as her Adjusted Income, \$1,767. Because this amount exceeds the eligibility limit of \$1,064 for a household of one (1), she was ineligible for SNAP benefits. State's Exhibit 8.

The Appellant stated that she does not have sufficient income, after paying her bills, to afford food and hair products, so she is in need of SNAP benefits. She stated that in addition to paying her phone bill, she also helps to pay the light bill, which is \$1,600. The Appellant said that she did not provide her utility bills because Ms. Frazier only asked for four (4) paystubs, not for her utility bill(s). She pointed out that the rent verification from her landlord states that she pays her own phone bill. Ms. Frazier stated that the Appellant did not report to her that she pays utilities. Ms. Tunstall pointed out that, in her request for Fair Hearing, the Appellant stated only that she pays her phone bill of \$200 but did not mention an electric/light bill. State's Exhibit 1. The Appellant pointed out that she does not receive her full gross income, as she has taxes taken out. She said she uses her SSI payment to pay her rent and that her phone bill takes half of her employment income and she uses the other half to buy hair products and groceries.

IV – Discussion and Analysis of Law

The only authority of the hearing officer is to “apply the State rules except to the extent they are in conflict with applicable federal regulations.” *DSSM* § 5406.1(1). “[T]he decision of the hearing officer [must be] . . . free of legal error.” *Brooks v. Meconi*, 2004 Del. Super. Lexis 363, *3 (Del. Super. Ct. 2004). The factual findings of an administrative officer must be “supported by substantial evidence on the record as a whole.” See 31 *Del. C.* § 520. *Dean v. Delaware Dept. of Health and Soc. Serv.*, 2000 Del. Super. LEXIS 490, *aff’d* 781 A.2d 693 (Del. 2001). Substantial evidence is defined as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” (quoting *Plummer v. Apfel*, 186 F.3d 422 (3d Cir. 1999)).

Participation in the Food Stamp Program is “limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.” *DSSM* § 9054. The amount of SNAP Benefits is determined by calculating the applicant’s net income, as set out in *DSSM* § 9065.

Participation in the Food Stamp Program is “limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.” *DSSM* § 9054. The amount of Food Benefits is determined by calculating the applicant’s net income, as set out in *DSSM* § 9065. “Information provided by the household shall be verified[.]” *DSSM* § 9091.4. A certification interview must be scheduled so that the household has at least ten (10) days after the interview in which to provide verification before the certification period expires. *DSSM* § 9091.3. DSS must inform the household of what verifications must be provided and must give at least 10 days to provide it. *DSSM* § 9091.4.

DSS uses income from the past 30 days, unless there is reason to believe that the income is not representative of future income. DSS will multiply weekly income by 4.33 to arrive at an average gross monthly income. *DSSM* § 2014.3. The 4.33 multiplier accounts for the average length of a month, which exceeds four weeks by a fraction of a week.

In this case, the State used the gross weekly amount from four (4) paystubs. The average of those amounts was \$329.06 (\$1,316.25 divided by 4 = \$329.06). The weekly amount was multiplied by 4.33 to arrive at a monthly gross employment income of \$1,424.84. The unearned income of \$794 from SSI was added to the employment income for total monthly gross income of \$2,218.84.

Appellant was entitled to a work deduction of \$284.97 (20% of employment income) and a standard deduction of \$167. After those deductions, her Adjusted Income was \$1,766.87.

She was entitled to an Excess Shelter Deduction for the amount of her shelter and utility expenses that exceed one-half of her Adjusted Income, or \$883.44 (\$1,766.87 divided by 2 = \$883.44). *DSSM* § 9065(G). Her rent is \$600 and is verified. There is an indication from her landlord that she pays her phone bill, but that amount is not verified. The Appellant states it is \$200, and that she reported it to Ms. Frazier, but that she was never asked to provide a bill as verification. Ms. Frazier states that the Appellant did not report that she pays a phone bill.

The evidence is substantial and consistent that the Appellant pays a phone bill. The renewal form and the landlord's verification, both date-stamped March 22, 2021, show that the Appellant pays a phone bill. Additionally, the Appellant's email requesting Fair Hearing indicates that she pays a phone bill of \$200. Nonetheless, the Appellant was not asked to provide verification of the phone bill; she was only asked to provide additional paystubs.

The evidence is not believable, however, relating to the Appellant paying an electric bill. Although she checked off electric on her renewal form, her landlord did not include it in the rent verification and the Appellant did not mention it in her email request for Fair Hearing. Furthermore, her testimony that it is \$1,600 indicates that the bill likely has not been paid and is overdue.

Ms. Frazier is correct that, even if the Appellant was given credit for paying a phone bill of \$200, the determination of eligibility would not change. This is because the State correctly calculated the Appellant's Adjusted Income (\$1,766.87) and half of the Adjusted Income (\$883.44). In order to deduct an excess shelter expense, the Appellant's combined shelter and utility expenses must exceed half of the Adjusted Income. Adding the Appellant's \$600 rent to her \$200 phone bill (assuming it could be verified) yields total shelter/utility costs of \$800. This does not exceed \$883.44 (half of the Adjusted Income), so the Appellant is not entitled to deduct any of those expenses. Her Net Income, therefore, will still be the same as her Adjusted Income of \$1,766.87. This amount exceeds the eligibility limit of \$1,064, so she is not eligible for SNAP benefits.

The foregoing is supported by substantial evidence.

V – Decision

For the reasons stated above, DSS' denial of the Appellant's SNAP benefits is **AFFIRMED**.

/s/Mary Anne McLane Detweiler
MARY ANNE MCLANE DETWEILER
HEARING OFFICER

THE FOREGOING IS THE FINAL DECISION OF THE DELAWARE DEPARTMENT OF
HEALTH AND SOCIAL SERVICES

June 1, 2021
POSTED

cc: Appellant
Rotante Tunstall, FHT
Donna Frazier, DSS

EXHIBITS

STATE’S EXHIBITS

Exhibit #1 (2 pages) Consists of emails dated April 2 and April 6, 2021

Exhibit #2 (3 pages) Consists of select pages from completed Food Benefit Renewal Letter and form date-stamped March 22, 2021

Exhibit #3 (3 pages) Consists of copies of paystubs from Adams Four Grocer

Exhibit #4 (1 page) Consists of copy of rent verification letter, date-stamped March 22, 2021

Exhibit #5 (1 page) Consists of copy of Delaware Identification Card, date-stamped March 22, 2021

Exhibit #6 (2 pages) Consists of DSS Interview Checklist dated March 23, 2021

Exhibit #7 (2 pages) Consists of Verification Request dated March 23, 2021

Exhibit #8 (5 pages) Consists of Notice to Deny Your Food Benefits dated April 1, 2021

APPELLANT’S EXHIBIT(S)

None