EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES STATE OF RHODE ISLAND

Rhode Island Executive Office of Health and Human Services
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Docket # 15-757
Hearing Date: May 6, 2015

May 22, 2015

[redacted]

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency regulation(s) were the matters before the hearing:

THE DHS POLICY MANUAL: Supplemental Nutrition Assistance Program
SECTION: 1008 Financial Criteria – Income
SECTION: 1010 Calculating Food Stamp Benefits
SECTION: 1038 SNAP Program Standards

The facts of your case, the Agency regulation(s), and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You and your spouse (the appellants), and Agency representatives: Gina DaGraca, Vania Rebollo, Robin Barradas, Betty Murray, and the Corrective Action Unit.

Present at the hearing were: You (the appellant husband), a Spanish Interpreter, and Agency representative Robin Barradas.

ISSUE: Is the appellant couple ineligible for SNAP benefits as of March 31, 2015 because their countable income exceeds the programs income limits for their household size?

DHS Rules and Regulations:
Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Rules and Regulation

APPEAL RIGHTS:
Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The Agency representative testified:

- The household completed a SNAP recertification and submitted documentation, including a mortgage statement, water bill, and sewer bill.
- The appellant's have rental property and the expenses were included when calculating the rental income.
- The rental income for two apartments totals $1,450.00.
- It is unclear whether the couple received benefits in the past that they were not eligible for because the wife might have been incorrectly considered to be a boarder in her husband's house.
- As a married couple residing together, the Agency must consider both of their Social Security benefits as well as the rental income.
- The husband receives Social Security of $1,116.00 and the wife receives Social Security of $753.16. No, correction, she receives $469.00 gross as reported by the Social Security Administration to the Agency through the computer system.
- After calculating the income and considering all allowable expenses, the appellants' income was too high; it was over the income standard, so their benefits were closed.

The appellant husband, with the assistance of a Spanish Interpreter, testified:

- He receives Social Security in the amount of $1,116.00.
- His wife has Social Security in the amount of $457.00 direct deposited into the bank.
- He owns the property that he and his wife reside in.
- The property has three units and he rents two.
- One apartment is rented for $675.00 and the other for $700.00.
- He has a monthly mortgage of $1,132.49.
- He has been in bankruptcy for more than a year and the bank knows of his bankruptcy. He is still paying his mortgage but right now he is behind almost two months and is almost at the point where they want to take the house, so he has

to pay $1,132.49 today. They also make you pay extra when you are behind in your payments.

- His property taxes are included in his mortgage, so the bank pays those.
- He pays the water and sewer bills for the whole house.
- His tenants pay their own gas and electric bills.
- Circumstances regarding the rental property change. Sometimes an apartment is rented and then other months it is not. The expenses also change. For example, one time he had a tenant that incurred a very large water/sewer bill that he had to pay.
- It is very difficult to calculate his monthly medical expenses because they change and you never know when you are going to incur more medical expenses.
- He believes his medical expenses at the time of recertification were about $200.00 a month.
- He does not know if he submitted any medical expenses to the Agency with his SNAP recertification and he does not have any verification of medical expenses to submit at hearing.

FINDINGS OF FACT:

- The appellants were informed per a notice dated March 19, 2015 that their SNAP benefits would close effective March 31, 2015 because their countable income of $2,091.50 was more than was allowed for a household size of two.
- The appellants submitted two requests for hearing forms, one received by the Agency on March 19, 2015 and the other received on March 25, 2015.
- An Administrative Hearing was convened on May 6, 2015.
- The appellant husband and wife are the only individuals in the SNAP household.
- The appellant husband receives a gross monthly Social Security benefit of $1,116.90.
- The appellant wife receives a gross monthly Social Security benefit of $573.90.
- The appellant husband and wife both pay $104.90 each month for their Medicare Part B premium.

- The appellant own a house with three units. The appellants reside in one unit and rent the other two units.
- At the time of the SNAP recertification, the rent from the two units totaled $1,450.00.
- The appellants pay a monthly mortgage of $1,132.49, which consists of principle, interest, and escrow.
- The appellants pay the water and sewer costs for all three units. The two tenants pay their own gas and electric.
- After allowing for expenses, $584.42 of the rent is countable unearned income.
- The appellants' total monthly gross income, consisting of the two Social Security benefits and the countable rent is $2,275.00.
- The appellants qualify for a standard deduction of $155.00, a medical deduction of $175.00, and an excess shelter deduction of $32.00.
- The appellant's monthly net income is $1,913.00
- The maximum net income for a household size of two is $1,311.00.

CONCLUSION:

The issue to be decided is whether the appellant couple is ineligible for SNAP benefits as of March 31, 2015 because their countable income exceeds the programs income limits for their household size.

The Agency testifies that the appellants' SNAP benefits were closed because the household's net income at the time of recertification exceeded the maximum net income allowed for a household of two. The appellant argues that he is in bankruptcy and is behind in paying his bills. He further argues that his circumstances, specifically rental income and/or shelter and medical expenses, are not always the same month to month.

Per the SNAP regulations, a household's income must be within certain income standards for SNAP eligibility to exist. While some households must meet both gross and net income standards, households that contain an elderly or disabled member, such as the appellants, must only meet the program's net income eligibility standard, which is 100% of the Federal Poverty Level (FPL) for the household size. There is no dispute that the appellants' have a household size of two. At the time of their SNAP closure, 100% of the FPL for a household of two was $1,311.00.

There is no dispute that the appellants both receive unearned income in the form of a monthly Social Security benefit. Both parties agree that the appellant husband receives a gross monthly Social Security benefit of $1,116.90. While the parties gave conflicting and/or inconsistent testimony as to the appellant wife's gross Social Security, a full review of the evidence submitted finds that at the time of the SNAP closure, the wife was receiving a monthly gross Social Security benefit of $573.90. The evidence also establishes that both husband and wife have $104.90 deducted from their Social Security benefit each month to pay their Medicare Part B premium.

There is also no dispute that the appellants receive monthly rental income and that the rental property consists of three units; one occupied by the appellants and the other two rented. Per the SNAP regulations, the appellants' rental income is considered unearned income which is to be calculated by subtracting the cost of maintaining the rental property from the gross rental receipts. The parties presented conflicting testimony as to the amount of the gross rental receipts. The Agency testifies that the appellants reported at recertification that they were receiving total rent of $1,450.00 for the two apartments. The appellant testifies at hearing that he receives $675.00 for one apartment and $700.00. Neither party provided any evidence to verify the rental income and the appellant was unclear as to whether what the Agency testified to was incorrect or if there was a change in rent and if so when. Therefore, in the absence of any clear evidence of the rental receipts, $1,450.00 will be accepted as the rent at the time of recertification. While the Agency testified that the property expenses were considered in determining the amount of countable rental income, they were unable to clearly explain how they were considered and/or how much of the rent was counted. Both parties did present evidence as to the expenses incurred on the property and the appellant testifies that both tenants pay their own heat and electricity, but that he pays for the water and sewer for all three units. It should be noted, while the appellant testifies that he is behind in his mortgage and in danger of foreclosure, the evidence submitted verifies that at the time of recertification his mortgage payments were up to date. While the evidence does show past due balances on his water and sewer bills, it is the incurred monthly expenses that are considered. The evidence submitted establishes that at the time of recertification, the appellant had a monthly mortgage bill of $1,132.49, consisting of a principle of $533.02, interest of $239.41, and escrow of $360.06; a monthly sewer bill of $112.77; and a monthly water bill of $53.12. Since the appellants reside in one unit and only two units are rented, only two-thirds of the property expenses are allowed when determining the countable rental income. The other one-third of the expenses will be considered the appellants' shelter expenses in the determination of their net income. The evidence establishes monthly property expenses consisting of mortgage principle and interest, property taxes, water, and sewer of $1,298.38, two-thirds of which is $865.58, thereby resulting in a countable rental income of $584.42. In summary, the appellant couple's total gross income consisting of Social Security benefits and rental income thereby totals $2,275.00, not the $2,631.00 presented by the Agency.

Per the SNAP regulations, when calculating net income, only certain deductions are allowed to be subtracted from the household's gross income. A full review of the record establishes that the appellants qualify for the following allowable deductions: a standard deduction, an excess medical expense deduction, and an excess shelter deduction

The SNAP regulations set the standard deduction for a household a two at $155.00.

The SNAP regulations define an excess medical expense deduction as the portion of total medical expenses incurred by elderly or disabled household members that exceed $35.00 a month. A standard medical deduction of $141.00 is given unless a household claims and verifies that their monthly medical expenses exceed $176.00 a month, at which time the actual amount of the medical expenses that exceed $35.00 would be allowed. While the appellant husband testifies that medical expenses fluctuate and that their monthly medical expenses are approximately $200.00 a month, a full review of the evidence submitted finds verification of only two recurring monthly medical expenses, specifically the $104.90 Part B Medicare premiums incurred by both the husband and wife totaling $209.80. As this amount exceeds $176.00, the amount over $35.00, or $174.80, rounded up to $175.00, is the appellants' allowable monthly medical expense deduction. It should be noted that this is the medical deduction that was allowed by the Agency.

Per the SNAP regulations, the excess shelter deduction is calculated by subtracting 50% of the previous adjusted income from the total allowable shelter costs. The appellants' allowable shelter costs include his one-third of the mortgage, taxes and insurance as discussed previously, or $377.50, as well as a standard utility allowance (SUA) of $627.00, as set by the SNAP regulations, to cover the cost of his utilities, including gas, electric, water and sewer. The appellants' total shelter costs are thereby $1,004.50. 50% of their adjusted income of $1,945.00 is $972.50, which when subtracted from their total shelters costs results in an excess shelter allowance of $32.00. In summary, the appellants' net household income is calculated by subtracting the $155.00 standard deduction, the $175.00 medical deduction, and the $32.00 excess shelter deduction from the household's gross income of $2,275.00, resulting in a monthly net income of $1,913.00, as opposed to the $2,091.50 presented by the Agency.

In conclusion, for SNAP eligibility to exist, the appellants' countable monthly net income cannot exceed the maximum net monthly income standard for a household of two, or $1,311.00. The appellants' monthly net income of $1,913.00 clearly exceeds that amount.

After a careful review of the Agency's rules and regulations, as well as the evidence and testimony given, this Appeals Officer finds the appellant couple are ineligible for SNAP benefits as of March 31, 2015. The appellants' request for relief is thereby denied.

Debra L. DeStefano
Appeals Officer

APPENDIX

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)
(Pertinent excerpts)

1008 *(7 CFR 273.9)* *FINANCIAL CRITERIA - INCOME*

1008.05 *(7 CFR 273.9)* INCOME

REV:10/2010
The Food Stamp Act requires that participation be "limited to those households whose income and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet." The standards are established by law and apply to all households applying for SNAP benefits.

Household income means all income from whatever source excluding only the items specified in 1008.10. The income considered is that received over the period of certification. As this is generally a future period, the income considered is usually that anticipated by the household. Section 1010 discusses how to determine Supplemental Nutrition Assistance Program (SNAP) income.

Households that contain an elderly or disabled member must meet the net income eligibility standards for the Supplemental Nutrition Assistance Program.

Households that do not contain an elderly or disabled member must meet both the gross income eligibility standards and the net income eligibility standards for the Supplemental Nutrition Assistance Program.

Households that are categorically eligible because they are recipients of RIW cash assistance and/or SSI do not have to meet either the gross or net income eligibility standards.

The gross and net income eligibility standards are based on the Federal income poverty levels established as provided in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

SNAP-only categorically eligible households that are recipients of a TANF-funded Service (the RI Department of Human Services TANF Information Publication) must meet the 185% gross income standard solely to determine eligibility for expanded categorical eligibility, and must meet the net income standards in order to determine benefit amount. One and two person households that are categorically eligible do not have to meet the net income standard in order to be eligible for the minimum monthly benefit.

The gross income eligibility standards for the Supplemental Nutrition Assistance Program for the contiguous 48 states, the District of Columbia, the Virgin Islands and Guam is one hundred thirty (130) percent of the Federal income poverty level

The net income eligibility standards for the Supplemental Nutrition Assistance Program for the contiguous 48 states, the District of Columbia, the Virgin Islands and Guam is one hundred (100) percent of the Federal income poverty level.

The income eligibility limits 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.

The annual income poverty guidelines are divided by twelve (12) to determine the monthly gross income standards, rounding the results upward as necessary. For households greater than eight (8) persons, the increment in the Federal income poverty guidelines is multiplied by appropriate federal poverty level percentage, divided by twelve (12), and the results rounded upward, if necessary.

The annual income poverty guidelines are divided by twelve (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 twelve (12), and the results rounded upward, if necessary. The income eligibility standards are listed in Section 1038.25.

1008.15.10.10 *(7 CFR 273.9)* ***Pensions, Social Security***

REV:02/1989

Include as income annuities, pensions, retirement, Veteran's or disability benefits, Worker's or Unemployment Compensation, Social Security benefits, including the SMI amount, or strike benefits.

1008.15.10.45 *(7 CFR 273.9)* ***Certain Rental Income***

REV:02/1989

Include as income the gross income, minus the cost of doing business, derived from rental property if a household member is not actively engaged in management of the property at least twenty (20) hours a week.

1008.20 *(7 CFR 273.9)* Deductions from Income

REV:05/2005

The SNAP allows five (5) deductions from a household's gross income. These deductions are:

* the earned income deduction;
* the standard deduction;
* the excess medical expense deduction;
* the dependent care deduction; and
* the excess shelter deduction.

1010.25 *(7 CFR 273.10)* METHOD FOR FIGURING NET MONTHLY INCOME

REV:10/2012

The following seven (7) steps lead to the determination of a household's SNAP monthly income. In this determination, the rounding technique described in Section 1010.25.10, must be applied.

1. Total Gross Income

Add the total gross monthly earned income of 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 of a farmer are offset in accordance with Section 1016.15.35.

* Net Monthly Income

Calculate the earned income deduction as described in Section 1038.07 and subtract that amount from the total gross income; add that to the total monthly unearned income, minus income exclusions.

* Standard Deduction

Subtract the standard deduction found in Section 1038.05.

* Excess Medical Deduction

If the household is entitled to an excess medical deduction as provided in 1010.20.15., determine if total medical expenses exceed thirty-five dollars ($35). If so, deduct the standard medical deduction of one hundred and forty one dollars ($141). If the household has medical expenses that exceed one hundred and seventy six dollars ($176) and it elects to verify actual expenses, subtract that portion of medical expenses in excess of thirty five dollars ($35).

* Dependent Care Deduction

Subtract monthly dependent care expenses, if any.

* Determining Any Excess Shelter Expense

Add allowable shelter expenses to determine total shelter costs. Subtract from total shelter costs fifty percent (50%) of the adjusted income (the household's monthly income after all the above deductions have been subtracted). The remaining amount, if any, is the excess shelter expense. If there is no excess shelter expense, the net monthly income has been determined. If there is an excess shelter expense, go to the next step.

* Applying Any Excess Shelter Expense

Subtract the excess shelter expense up to the maximum amount allowed (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other deductions. The maximum amount allowed for the shelter deduction, for those households subject to a shelter maximum, is found in Section 1038.15. For households not subject to a shelter maximum, subtract the full amount of shelter expenses exceeding fifty percent (50%) of net income. The result is the household's monthly net adjusted income.

1010.30 *(7 CFR 273.10)* DETERMINING HOUSEHOLD ELIGIBILITY

REV:08/1986

Households which contain an elderly or disabled member, as defined below, must have their net income, as calculated in 1010.25, compared to the maximum net monthly income eligibility standards defined in Section 1038.25., Table II, for the appropriate household size to determine eligibility for the month.

All other households (which do not contain an elderly or disabled member), must have their gross monthly income compared to the gross monthly income eligibility standards defined in Section 1038.25., Table I, for the appropriate household size to determine eligibility for the month. Following that determination, such households have that income calculated in accordance with 1010.25.

1038 (7 CFR 273.9) SNAP PROGRAM STANDARDS

1038.05 *(7 CFR 273.9)* STANDARD DEDUCTION

REV:12/2014

Each household is allowed a standard deduction as outlined below:

Household Size	Standard Deduction Amount
1	$155
2	$155
3	$155
4	$165
5	$193
6+	$221

The amounts above are provided annually by Food and Nutrition Services (FNS) and equal 8.31 percent of the Federal poverty level but not more than 8.31 percent of the Federal Poverty Level (FPL) for a household of six (6).

In any case, the standard deduction for a household shall not be less than one hundred fifty five dollars ($155).

1038.20 *(7 CFR 273.9)* UTILITY EXPENSES

REV:10/2005

There are three methods of calculating utility expenses for households:

* The standard utility allowance which is used only when the household is billed for heating and/or cooling costs on a regular basis or has received or expects to receive a LIHEAA payment at its current address;

* The actual utility expenses, not including heating and/or cooling costs, which the household incurs and

* pays for separately. These utility amounts are then added to the rent or mortgage payments (including property taxes, insurance and local assessment) to obtain the total shelter expense; and,

* The standard telephone allowance of $22.50, which is used for household that incurs the expense of a basic service charge for one telephone and is not eligible to use the standard utility allowance.

1038.20.05 *(7 CFR 273.9)* Standard Utility Allowance

REV:12/2014
The SUA is six hundred and twenty seven ($627.00) per household per month based on an annualized (twelve-month) average of utility costs.

The standard utility allowance includes the cost of heating and/or cooling, cooking fuel, electricity, or gas not used to heat or cool the residence, the basic service fee for one telephone, water, sewerage and garbage and trash collection, refer to Section 1008.20.25.05.

1038.25 *(7 CFR 273.9)* GROSS AND NET INCOME ELIGIBILITY STANDARDS

REV:12/2014
The gross or net income eligibility standards for the household size are used to determine the household's eligibility according to the characteristics of the household.
1. To determine eligibility for non categorically eligible households the following steps are taken:
a. Compare the total gross monthly income of the household to the one hundred thirty percent (130%) maximum gross monthly income limit for the appropriate household size in Table I, below;
b. Compare the total net monthly income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size in Table II, below.
2. To determine eligibility for categorical eligibility due to receipt of a TANF-funded service:
a. If the household's gross income is at or below one hundred and eighty five percent (185%) of the gross income limit, Table IV, the household meets the criteria for categorical eligibility and is not subject to a resource test.
b. The agency calculates the household's total net monthly income and then compares the total net monthly
income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size in Table II below to determine eligibility for SNAP benefits.
c. If the household's net income is at or below the net income limit, the household receives a benefit as long as the normal household size reduced by thirty percent (30%) of the household's net income in Table II results in a positive benefit amount.
3. Households that do not meet the net eligibility standard and would not receive a benefit are denied. EXCEPTION: One and two person categorically eligible households do not have to meet the net income standard in order to be eligible for the minimum monthly benefit.
4. To determine eligibility for households containing a member(s) who is elderly or disabled, or a disabled veteran or surviving disabled spouse/child(ren) of a veteran, the following steps are taken:
a. Same household status

i. Compare the adjusted net monthly SNAP income of the household, computed in accordance with the instructions in Section 1010, to the maximum net monthly income limits for the appropriate household size in Table II, below.

b. Separate household status

i. Compare the gross monthly income of all other members in the household to the one hundred sixty-five percent (165%) maximum gross monthly income limit for the appropriate household size in Table III, below.

c. An elderly or disabled person/spouse is not considered a household member for this purpose, includes disabled veterans or surviving disabled spouse/child(ren) of a veteran, refer to Section (1010.30.05).

d. Elderly/disabled categorical eligibility due to receipt of a TANF-funded service

i. Compare the total gross monthly income of the household to the two hundred percent (200%) gross monthly income limit for the appropriate household size in Table V, below.

ii. If the household's gross income is over two hundred percent (200%) of the gross income limit, Table V, the household does not meet the criteria for categorical eligibility and is subject to a resource test.

iii. The agency then compares the total net monthly income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size in
Table II below to determine eligibility for SNAP benefits.

iv. If the household's gross income is at or below two hundred percent of the gross income limit, Table V, the household meets the criteria for categorical eligibility and is not subject to a resource test.

v. The agency then compares the total net monthly income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size in Table II below in order to determine eligibility for SNAP benefits.

4. EXCEPTION: One and two person categorically eligible households do not have to meet the net income standard in order to be eligible for the minimum monthly benefit.

TABLE II - 100% INCOME LIMIT - NET MONTHLY INCOME LIMIT

HOUSEHOLD SIZE	MAXIMUM NET MONTHLY INCOME	HOUSEHOLD SIZE	MAXIMUM NET MONTHLY INCOME
1.	$973.00	9.	$3,680
2.	$1,311	10.	$4,019
3.	$1,650	11.	$4,358
4.	$1,988	12.	$4,697
5.	$2,326	13.	$5,036
6.	$2,665	14.	$5,375
7.	$3,003	15.	$5,714
8.	$3,341	16.	$6,053

+ For each additional member over 16, add $339.00.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.