

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
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Docket # 14-1009  
Hearing Date: August 26, 2014

Date: September 16, 2014

**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 policy reference(s) were the matters before the hearing:

**DHS POLICY MANUAL: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM  
SECTION: 1008 Financial Criteria Income  
SECTION: 1038 SNAP Program Standards  
SECTION: 1038.25 Gross and Net Income Eligibility Standards**

The facts of your case, the agency policy, 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 (the appellant), and Agency representatives: Aline Guertin, Vania Rebollo, and Betty Perez.

Present at the hearing were you (the appellant), and the Agency Representative: Aline Guertin.

**ISSUE: Is the appellant ineligible for Supplemental Nutrition Assistance Program (SNAP) benefits as of June 30, 2014?**

**DHS POLICIES:**

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

**APPEAL RIGHTS:**

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

**DISCUSSION OF THE EVIDENCE:**

**The agency representative provided the following testimony**

- The Agency verified that the gross earned income figure was obtained from his (the appellant's) spouses' pay-stubs which were averaged to be \$2477.00 per month.
- That figure was calculated from two weekly pay-stubs which totaled \$1143.26.
- The client's unearned income equals \$946.00 per month for his RSDI benefits.
- The client was allowed an earnings deduction of \$495.40 and a standard deduction of \$152.00.
- The Agency determined that the SNAP income counted was \$2775.60, and the Department allows a maximum net income of \$1293.00 for two.

**The appellant provided the following testimony:**

- He had chosen to reschedule this hearing for today because he wanted legal representation.
- He did speak with legal services, and they did hear his case, but they still did not show today.
- He did have a hearing earlier this day for another issue.
- He does not want to add or dispute any testimony presented.
- He guesses those are his wife's pay-stubs entered into evidence.

- He does receive \$946.00 per month in SSI benefits.
- He is aware that his case will be left open until September 9, 2014 to allow him continued exploration of legal options if he chooses to obtain assistance.

#### **FINDINGS OF FACT:**

- A denial notice dated May 30, 2014 informed the appellant that his Food Stamp allotment would be closed as of June 30, 2014 because his countable income of \$2775.60 was greater than the net income allowed for a family of his size.
- The May 30<sup>th</sup> denial further identified that the DHS maximum allowable net income is \$1293.00.
- The appellant filed a timely request for hearing received by the Agency on June 24, 2014.
- The appellant's household consists of himself and his wife.
- The appellant receives \$946.00 per month in social security disability benefits.
- The appellant rescheduled his August 7th hearing to August 26th in order to obtain legal counsel, with whom he made contact. They did not appear at hearing, nor enter an appearance.
- The record of hearing was held open to the close of business on September 9<sup>th</sup>, in order to allow the appellant to continue to explore legal options, or to allow an entry of appearance by an attorney, and to allow a reconvene with an attorney if needed.
- There was no contact from the appellant or legal representatives by the close of business on September 9, 2014.

#### **CONCLUSION:**

The issue to be decided is whether the appellant is ineligible for Supplemental Nutrition assistance Program (SNAP) benefits as of June 30, 2014.

The record establishes that the appellant's SNAP household consists of two. The appellant verified that his SSI disability benefits total \$946.00 per month. He acknowledged the paystubs attributed to his wife. The Agency presented that the appellant's wife had provided paystub documentation indicating that the family's SNAP countable net income totaled \$2775.60 per month, which exceeds the maximum allowable SNAP net income for two which equals

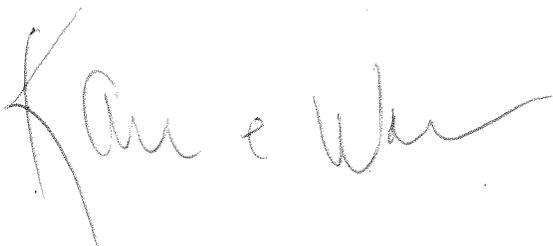
\$1293.00. The appellant did not refute or accept any testimony presented, and did not present any defense himself.

Per SNAP policy, participation in the program is limited to households whose income and resources are determined to be a limiting factor in allowing them to maintain a nutritious diet. For households with a disabled member, adjusted net monthly SNAP income for the household is determined and compared to the income limits for two person households at 100% of the federal poverty level (FPL). The Agency correctly determined the appellant's gross earned income to be \$2477.00 derived from pay-stubs provided by the appellant's spouse. They determined an earnings deduction of \$495.00 as calculated by taking 20% of the gross income. They added the appellant's monthly SSI income of \$946.00; and, then subtracted the standard deduction for a household of two which was \$152.00. The total countable SNAP income was correctly determined to be \$2775.60. The maximum net income allowed by the SNAP program for a household of two is \$1293.00.

The appellant did not dispute nor add any testimony except to agree that the pay-stubs were most likely those of his wife. He chose to respond minimally and then only with yes or no answers. He acknowledged that he had rescheduled the hearing for today in order to obtain legal representation. He further agreed that legal services had heard his case, but they did not show today for hearing. The appellant was allowed additional time in which to continue to explore legal representation and reconvene if needed. No response was received in the held open period.

In summary, the Agency calculations were correct. The paystubs used to determine eligibility were submitted by the appellant's wife. The credible and undisputed testimony and evidence presented by the Agency found that the appellant is ineligible for SNAP benefits as his countable income of \$2775.60 exceeds the allowable SNAP maximum net income of \$1293.00.

After a careful review of the Agency's policies, as well as the evidence and testimony given, the Appeals Officer finds that the appellant's countable monthly income exceeds the SNAP income eligibility standards and he is thereby ineligible for SNAP benefits as of June 30, 2014. The appellant's request for relief is denied.



Karen E. Walsh  
Appeals Officer

**APPENDIX**

## **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 Unearned Income**

REV:01/2009

The following types of income are considered unearned: (This list is not inclusive.)

- \* Assistance Payments
- \* Pensions, Social Security
- \* Support and Alimony
- \* Educational Loans and Grants
- \* Managed Income
- \* Garnishments
- \* Grants, Interest Payments
- \* Income from Excluded Household Members
- \* Certain Rental Income
- \* Certain "Vendor" Payments
- \* Trust Withdrawals
- \* Deemed Income from an Alien's Sponsor
- \* Income of Individuals Disqualified for an IPV
- \* Foster Care Payments

#### ***1008.15.10.05 Assistance Payments***

REV:11/2000

Assistance payments from Federal or federally aided public assistance programs, such as Supplemental Security Income (SSI), RI Works Program (RIW), General Public Assistance (GPA) or other assistance programs based on need, are considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt under the provisions of 1008.10.10. Assistance payments from programs which require as a condition of eligibility the actual performance of work without compensation other than the assistance payments themselves are considered unearned income.

#### ***1008.15.10.10 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.

### 1038 (7 CFR 273.9) SNAP PROGRAM STANDARDS

#### 1038.05 (7 CFR 273.9) STANDARD DEDUCTION

REV:11/2013

Each household is allowed a standard deduction as outlined below: Household Size Standard Deduction Amount

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 two dollars (\$152).

REV:11/2013

Each household is allowed a standard deduction as outlined below:	\$152
Household Size Standard Deduction Amount	
1	\$152
2	\$152
3	\$152
4	\$163
5	\$191

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

REV:11/2013

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

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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

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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 I - 130% LIMIT - GROSS MONTHLY INCOME LIMIT  
HOUSEHOLD MAXIMUM GROSS HOUSEHOLD MAXIMUM GROSS SIZE  
MONTHLY INCOME SIZE MONTHLY INCOME

1.	\$1,245	9.	\$4,730
2.	\$1,681	10.	\$5,166
3.	\$2,116	11.	\$5,602
4.	\$2,552	12.	\$6,038
5.	\$2,987	13.	\$6,474
6.	\$3,423	14.	\$6,910
7.	\$3,858	15.	\$7,346
8.	\$4,294	16.	\$7,782

+ For each additional member over 16, add \$436.00.

TABLE II - 100% INCOME LIMIT - NET MONTHLY INCOME LIMIT  
HOUSEHOLD MAXIMUM NET HOUSEHOLD MAXIMUM NET SIZE  
MONTHLY INCOME SIZE MONTHLY INCOME

1.	\$958.00	9.	\$3,638
2.	\$1,293	10.	\$3,973
3.	\$1,628	11.	\$4,308
4.	\$1,963	12.	\$4,643
5.	\$2,298	13.	\$4,978
6.	\$2,633	14.	\$5,313
7.	\$2,968	15.	\$5,648
8.	\$3,303	16.	\$5,983

+ For each additional member over 16, add \$335.00.

TABLE III - 165% INCOME LIMIT- ELDERLY/DISABLED SEPARATE HOUSEHOLD  
MONTHLY MONTHLY  
MAXIMUM MAXIMUM HOUSEHOLD GROSS  
HOUSEHOLD GROSS SIZE INCOME SIZE INCOME

1.	\$1,580	9.	\$6,003
2.	\$2,133	10.	\$6,556
3.	\$2,686	11.	\$7,109
4.	\$3,239	12.	\$7,662
5.	\$3,791	13.	\$8,215
6.	\$4,344	14.	\$8,768

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7.	\$4,897	15.	\$9,321
8.	\$5,450	16.	\$9,874

+ For each additional member over 16, add \$553.00.

TABLE IV- 185% GROSS MONTHLY INCOME LIMIT  
HOUSEHOLD MAXIMUM GROSS HOUSEHOLD MAXIMUM GROSS SIZE MONTHLY  
INCOME SIZE MONTHLY INCOME

1.	\$1,772	9.	\$6,730
2.	\$2,392	10.	\$7,350
3.	\$3,012	11.	\$7,970
4.	\$3,632	12.	\$8,590
5.	\$4,251	13.	\$9,209
6.	\$4,871	14.	\$9,829
7.	\$5,491	15.	\$10,449
8.	\$6,111	16.	\$11,069

+ For each additional member over 16, add \$620.00.

TABLE V- 200% GROSS MONTHLY INCOME LIMIT  
HOUSEHOLD MAXIMUM GROSS HOUSEHOLD MAXIMUM GROSS SIZE MONTHLY  
INCOME SIZE MONTHLY INCOME

1.	\$1,916	9.	\$7,276
2.	\$2,586	10.	\$7,946

3. . . . .	\$3,256	11. . . . .	\$8,616
4. . . . .	\$3,926	12. . . . .	\$9,286
5. . . . .	\$4,596	13. . . . .	\$9,956
6. . . . .	\$5,266	14. . . . .	\$10,626
7. . . . .	\$5,936	15. . . . .	\$11,296
8. . . . .	\$6,606	16. . . . .	\$11,966
+ For each additional member over 16, add \$670.00.			

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.