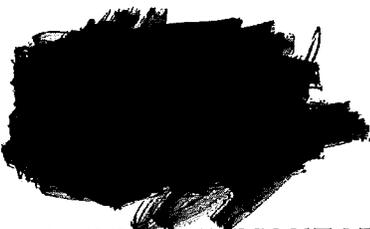


**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
600 New London Avenue  
Cranston, Rhode Island 02920  
(401) 462-2132/Fax# (401) 462-1678  
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Docket # 14-1586

Hearing Date: October 14, 2014

Date: October 31, 2014



**ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been **remanded** back to the agency to comply with the instruction found in the Conclusion of this decision. During the course of the proceeding, the following issue(s) and agency policy reference(s) were the matters before the hearing:

**THE FOOD STAMP POLICY MANUAL:**

**SECTION: 1038.25 Gross and Net Income Standards, 1008.10.50 Loans, 1008.15.15.05 Verifying Income**

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.

Present at the hearing were you, and Judith Anderson (agency representative). Copies of this decision have been sent to you, Judith Anderson, Carol Casinelli and the agency policy unit.

**ISSUE: Is the appellant's household eligible for \$67.00 in monthly Supplemental Nutrition Assistance Program (SNAP) benefits?**

**DHS POLICIES:**

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

**DISCUSSION OF THE EVIDENCE:**

**The agency representative provided the following testimony:**

1. The agency sent the appellant a notice dated August 27, 2014 notifying her that beginning October 1, 2014 she will receive \$67.00 in SNAP benefits on the first of each month through July 31, 2015.

2. The agency representative stated that the agency decision to reduce the appellant's SNAP benefit was made by the Providence SNAP recertification unit. At the time the recertification was completed the Providence unit entered as income the value of a \$5000.00 loan that the appellant received from her mother.

3. The agency representative stated that any income coming into the household is countable for SNAP eligibility purposes. The income indicated as received by the appellant is not sufficient to pay her bills. The appellant's monthly rent is \$1215.00. The appellant's monthly reported income does not cover her monthly expenses.

4. The appellant also indicates that she has heating/cooling utility expenses. The agency had monthly business income of \$400.00 and her daughter has monthly income of \$112.00 per week. The agency also included monthly unearned income of \$850.00 from the loan income.

5. The agency determined the appellant's monthly SNAP benefits using gross earned income of \$888.00 and monthly unearned income of \$850.00. The agency allowed a monthly earnings deduction of \$177.60, a standard deduction of \$152.00, and an excess shelter deduction of \$478.00 for countable income of \$930.40 for a SNAP benefit of \$67.00 for two.

6. The agency representative stated that the bottom line is that including the income from the appellant's mother the appellant's monthly income is not sufficient to pay her shelter costs.

**The appellant provided the following testimony:**

1. She stated that the agency has made mistakes in calculating her household income. She stated that she works part time and has always reported her earnings to the agency. She stated that she worked as a hostess for a few months and she has all of her income statements to submit. She was working 15 hours per week at \$10.00 per hour.

2. She stated that she has had income from lottery winnings during the past year. She stated that to help pay her bills she has been selling her personal items. She stated that before her income decreased due to the bad economy, she was making a good income and wishes that she did not need to collect SNAP benefits.

3. She stated that her sales dropped from her job and she has had some income from playing Keno. She stated that she does have a statement from the lottery that shows

her income from winnings. She stated that if all of her sources of income are added together including the money her mother loaned her she has sufficient income to pay her bills.

4. She stated that she won \$1850.00 from the lottery this past year. She stated that she has a \$13,000.00 credit card line and the expenses she is unable to meet with her income have been paid using her credit card. She has presently reached her credit card limit.
5. She stated that she can submit copies of her credit card statement to show how her expenses have been paid. She stated that her rent and utilities are paid to date.
6. She stated that her monthly income for September 2014 was her daughter's income of 15 to 18 hours per week and her store brought in \$830.00. She also continues to use some of the \$5000.00 that her mother loaned her. She stated that she has a cable bill of \$140.00 per month.
7. She stated that she is presently looking for work and hopes to get a job very soon.

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

1. The agency recertified the appellant's eligibility for SNAP benefits effective August 2014 through July 31, 2015. The agency sent the appellant notice dated August 27, 2014 notifying her that effective for the period of August 1, 2014 through September 30, 2014 she will receive \$134.00 in SNAP benefits. Beginning October 1, 2014 she will receive \$67.00 on the first of each month.
2. The agency determined at the time of recertification that the appellant's monthly shelter costs exceed her income. Her income is not sufficient to pay for her reported shelter costs.
3. The appellant submits that she was getting \$347.00 per month in SNAP benefits prior to August 2014. Her earned income has gone down over the summer. She has been able to pay her bills using money from a loan, her daughter's income, her credit card, and some lottery winnings.
4. This record of hearing was held open through October 30, 2014 to allow the appellant to submit documentation of her monthly expenses and income.

#### **CONCLUSION:**

The issue to be decided is what amount of SNAP benefits the appellant's household qualifies for based on the household's income and expenses submitted at the time of her SNAP recertification effective August 1, 2014?

The agency testified to and submitted into evidence verification of the appellant's income and expenses submitted by the appellant at the time of her SNAP recertification during August 2014.

The appellants question how the agency has calculated her household's Food Stamp benefits when the household was eligible for \$347.00 in prior months.

Review of the agency benefit calculation for August 2014 determines that the agency used the appellant's monthly-uneared loan gross income amount of \$850.00, plus the household's earned income of \$888.00.

The agency added the earned income to the uneared income for monthly total gross income of \$1738.00.

The agency allowed a standard income deduction of \$152.00, an excess shelter deduction of \$478.00, an earned income deduction of \$177.60 for total allowable deductions of \$807.60. The total income deductions were subtracted from the gross August 2014 income for countable SNAP income of \$930.40.

Review of the agency record determines that the appellant's prior SNAP benefit of \$347.00 was based on household monthly gross earned income of \$72.00 and net countable income of \$0.00 for SNAP benefit of \$347.00.

During the held open period the appellant submitted information indicating that at the time of recertification her household had income of approximately \$825.00 from her store, her daughter had approximate income of \$370.00 and she used money from the loan provided by her mother.

The appellant submitted copies of a paystub from May 2014, copies of her credit card statement indicating a current balance of \$13,056.69 with a minimum payment due of \$196.00.

The appellant submitted a letter dated October 18, 2014 indicating that for the month of September 2014 her income was \$616.00, her daughter's income was \$440.00; income from the sale of personal belongings was \$216.00. Her total household income was \$1505.00. The letter states that the balance of her expenses was paid using \$216.00 from the money loaned to her from her mother. The letter states that her total bills for September 2014 were \$1495.00.

Review of agency SNAP policy #1008.10.50 determines that, "All loans on which repayment is deferred, including loans from private individuals as well as commercial institutions, other than educational loans, are **excluded** as income for FSP purposes."

Review of agency SNAP policy #1008.15.15.05 determines that, "The agency representative must use documentary evidence as the primary source of verification. If other types of verification are used, the agency representative documents the case record as to why an alternate source was used. **When verifying that income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties that indicates that the payment is a loan and must be repaid is sufficient verification.**

In this matter both the agency representative and the appellant have testified that a loan exists between the appellant and her mother. The agency attributed \$850.00 per month from

the loan as "unearned income" to the appellant's countable household income in calculating her household's SNAP benefits effective August 2014.

The agency SNAP policy clearly states that all loans on which repayment is deferred are excluded as income. To be considered an excludable loan there must be an obligation to repay the funds evidenced by an agreement signed by both parties and the obligation to repay must be unconditional.

Based on the income and expenses submitted at hearing and review of the pertinent income policy I find that the agency calculation of SNAP benefits based on the household's expenses and income effective August 2014 was not correct.

**Action for the agency and the appellant:**

This matter is remanded back to the agency with the following instruction:

Per policy 1008.15.15.05 the **agency** is to allow the appellant 30 days from the date of this decision to provide a statement signed by both parties to the loan indicating that the income in question is a loan and must be repaid.

The **appellant** is advised to submit acceptable verification to the agency per the attached policy regarding the loan within 30 days from the date of this decision.

This hearing officer will retain jurisdiction in this case for 30 days, through December 1, 2014 to allow the agency to correspond with the hearing office as to the outcome of the appellant's SNAP eligibility effective August 1, 2014.

**APPEAL RIGHTS (SEE LAST PAGE)**



Michael J. Gorman  
Hearing Officer

**APPENDIX**

GROSS AND NET INCOME ELIGIBILITY STANDARDS 1038.25  
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

GROSS AND NET INCOME ELIGIBILITY STANDARDS 1038.25

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 GROSS

AND NET INCOME ELIGIBILITY STANDARDS 1038.25

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.

Loans

1008.10.50

REV: 09/1988

All loans on which repayment is deferred, including loans from private individuals as well as commercial institutions, other than educational loans, are excluded as income for FSP purposes.

Federal deferred payment educational loans, to the extent that they provide income assistance beyond that used for tuition and

mandatory fees as set forth in 1008.10.30, are not excludable under this provision. If the deferred educational loan is provided by a program funded in whole or in part under Title IV of the Higher Education Act, see the provisions in 1008.10.25 to determine an income exclusion for portions of such loan. Portions of non-Federal (State, local or private) deferred payment educational loans are excludable under this provision only to the extent that the lender specifically earmarks portions or all of such loan to provide for educational expenses such as travel or books, but not for living expenses such as rent, mortgage, personal clothing or food eaten at home.

Loans

1008.10.50

Methods of Verifying Income  
REV: 05/1986

1008.15.15.05

The agency representative must use documentary evidence as the primary source of verification. If other types of verification are used, the agency representative documents the case record as to why an alternate source was used.

When verifying that income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties that indicates that the payment is a loan and must be repaid is sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source, but claims the payments are loans, the agency representative must also require that the provider of the loan sign an affidavit indicating that repayments are being made or that payments will be made in accordance with an established repayment schedule.

### 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.