

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES APPEALS OFFICE

[REDACTED]

DOCKET No. 24-3394

v.

DEPARTMENT OF HUMAN
SERVICES

DECISION

I. INTRODUCTION

A Microsoft Teams meeting on the above-entitled matter was held on September 4, 2024, and the Appellant declined the option of a video hearing. The Appellant, [REDACTED], initiated this matter to appeal the decision made by the Department of Human Services (DHS) to close the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits upon renewal due to the household adjusted income exceeding the guidelines for SNAP. The Appellant claims that DHS failed to enter her household income correctly. For the reasons discussed in more detail below, the Appellant's appeal is granted.

II. JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. §42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to human services. The administrative hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. §42-35.1 et. seq., and EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issues on appeal are whether 1.) the Appellant's household income was properly entered and 2.) that SNAP was properly closed due to the Appellant's household income exceeding the income guidelines for SNAP as outlined in State regulations, as set forth below.

IV. STANDARD OF PROOF

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, unless otherwise specified, a preponderance of the evidence is generally required to prevail. 2 Richard J. Pierce, *Administrative Law Treaties* §10.7(2002) & *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130, 134 (R.I. 1989) (a preponderance standard is the "normal" standard in civil cases). For each element to be proven, the factfinder must believe that the facts asserted by the proponent are more probably true than false. When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006).

V. PARTIES AND EXHIBITS

Present for DHS was Eligibility Technician Glenda Ramos. Ms. Ramos provided testimony regarding the case. DHS offered the following documents into evidence at hearing.

- Exhibit #1 – SNAP gross income calculation for case # [REDACTED]
- Exhibit #2 – SNAP eligibility results for case # [REDACTED]
- Exhibit #3 – [REDACTED] family income update sheet dated March 4, 2024. The Appellant's self-employment explanation of her income from [REDACTED] [REDACTED] and for personal assistant work completed for [REDACTED].

- Exhibit #4 – The Appellant’s checks received from [REDACTED] [REDACTED].
- Exhibit #5 – The Appellant’s 2023 1099-NEC for personal assistant work completed for [REDACTED].
- Exhibit #6 – The Appellant’s Combined Tax Statement for Forms 1098, 1099, and 5498 for tax year 2023 from [REDACTED].
- Exhibit #7 – The Appellant’s complete tax return, 1040-SR, for tax year 2023.
- Exhibit #8 – a copy of a self-employment ledger for [REDACTED] from March 1, 2024, through April 7, 2024.
- Exhibit #9 – An [REDACTED] residual check for the Appellant dated February 7, 2024.
- Exhibit #10 – a copy of a self-employment ledger for [REDACTED] [REDACTED] from January 1, 2024, through February 29, 2024.
- Exhibit #11 – A written explanation of the Appellant’s freelance/self-employment income from January 1, 2024, through February 29, 2024, with copies of invoices billed to [REDACTED].
- Exhibit #12 – a copy of the [REDACTED] royalty payment from [REDACTED] [REDACTED], dated November 30, 2023, and a copy of a royalty payment from [REDACTED], dated February 8, 2024.
- Exhibit #13 – a copy of the Appellant’s 2023 W-2 from [REDACTED].
- Exhibit #14 – a copy of the Appellant’s 2023 W-2 from [REDACTED].
- Exhibit #15 – a copy of The Work Number employment verification for [REDACTED] [REDACTED] at [REDACTED], date of hire June 24, 2024.

The Appellant attended the hearing and testified on her own behalf. The Appellant offered no evidence at hearing.

VI. RELEVANT LAW/REGULATIONS

All income that is countable for SNAP is in State regulation 218-RICR-20-00-1.5.2. This income includes wages received for services performed as an employee, self-employment income including the total gain from the sale of any goods or services related to a business, excluding the costs of doing business, and any monies that are legally obligated and otherwise payable to the household. (§ 1.5.2(A)(1)(a)(1), (5), & (9)).

According to 218-RICR-20-00-1.5.4(D), self-employment income is annualized over a twelve (12) month period, even if the income is received in only a short period of time during the twelve (12) months. Self-employment income may not be calculated based on prior income (e.g., income tax return) when the household has experienced a substantial increase or decrease in income. For the period over which self-employment is determined, the agency adds all gross self-employment income, excludes the cost of producing the self-employment income, and divides the self-employment income by the number of months, twelve (12), over which the income will be averaged. (§ 1.5.4(D)(1), (3), (4)).

218-RICR-20-00-1.5.4(C) enumerates all the allowable expenses for an individual with self-employment income. Allowable costs of producing self-employment income include: 1.) payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, or other durable goods. 2.) Identifiable costs of labor, stock, and raw materials. 3.) Interest paid to purchase income-producing property. 4.) Insurance premiums and taxes paid on income-producing property. § 1.5.4(C)(a), (b), (c), & (d).

Under 218-RICR-20-00-1.6.3(A), the agency uses documentary evidence as the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Although documentary evidence must be the primary source of verification, acceptable verification must not be limited to any single type of document and may be obtained from the applicant/member or other sources.

VII. FINDINGS OF FACT

1. The BDN under appeal was issued on April 4, 2024, which stated that SNAP closed on April 1, 2024, due to the household income exceeding the SNAP standards.
2. An appeal was filed on May 20, 2024.
3. A formal hearing commenced on September 4, 2024.
4. According to DHS:
 - a. The Appellant has income from multiple sources, such as [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].
 - b. The Appellant's total monthly income was calculated as \$12,373.00.
 - c. The Appellant's monthly household expenses are property taxes of \$750.00 per month and the Standard Utility Allowance for incurring heating and/or cooling costs.
 - d. The income limit for SNAP for a household of five (5) is \$5,858.00.
 - e. SNAP closed due to the household being over the gross income limit by \$6,515.00 monthly.
5. According to the Appellant:
 - a. Employment at [REDACTED] is self-employment income, it is not full-time work, and it is not work that is paid weekly or monthly. The

Appellant bills for services performed and claims expenses. Total income received for the tax year 2023 was \$19,200.00, verified with a complete 2023 tax return, a Combined Tax Statement for Forms 1098, 1099, and 5498 for the tax year 2023, and 2023 Schedule C.

- i. Per the 2023 Schedule C from the Appellant's 2023 Tax return.
 - a. Gross income received was \$19,200.00 annually, or \$1,600.00 per month.
 - b. Expenses claimed were \$21,030.00 annually, or \$1,775.00 per month.
 - c. Net income received was \$(-)1,830.00 annually, or (-) \$152.50 per month for the year 2023.

b. Employment as a personal assistant for [REDACTED] is self-employment income, it is not full-time work, and she is not paid weekly or monthly. The total income received for 2023 was \$2,125.0. This income was verified by a complete 2023 tax return, a 2023 1099-NEC, and a 2023 Schedule C.

- i. According to the Appellant's 2023 tax return submitted and Schedule C, the Appellant did not claim any expenses.
- ii. This averages out to \$177.09 monthly in income.

c. Employment income received from [REDACTED] and [REDACTED] are royalties for work completed in the past.

- i. Per the 2023 W-2 from [REDACTED], the Appellant earned \$817.28 annually.

ii. Per the 2023 W-2 from [REDACTED] ([REDACTED] [REDACTED]), the Appellant earned \$789.47 annually.

d. According to the verification documents discussed above, the Appellant's annual gross income is \$22,931.75 (19,200 + 2125 + 817.28 + 789.47). When converted to a monthly figure, the Appellant earns about \$1,910.98 a month. Accordingly, this would put the Appellant's household under the monthly gross income limit of \$5,858.00.

6. According to the SNAP gross income calculation:

a. All the Appellant's income was entered as earned job income.

i. [REDACTED] was entered as \$11,622.98 monthly.

ii. [REDACTED] was entered as \$160.00 monthly.

iii. [REDACTED] was entered as \$90.25 monthly.

According to the documents the Appellant submitted to DHS, this income should have been entered as [REDACTED] and not [REDACTED]

[REDACTED].

b. DHS entered self-employment income in the amount of \$500.00 monthly, with no expenses. Based on DHS evidence and testimony, it was unclear where this figure came from.

c. This gross income calculation is incorrect based on the information the Appellant supplied to DHS and DHS subsequently submitted as evidence.

7. According to 2023 tax documents:

a. The Appellant clearly informed DHS of her income, and based on this, the Appellant's income should have been entered as follows:

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- i. Self-employment income: Income received under the business name of [REDACTED]. This income was received from billing [REDACTED]. The gross monthly income received is \$1,600.00 (based on \$19,200.00 annually), with allowed monthly expenses of \$1,775.00 (based on \$21,300.00 annually). This information was obtained from a 2023 Schedule C and accompanying 2023 1099.
- ii. Self-employment income: Income received as personal assistant to [REDACTED], was claimed under the business name of [REDACTED]. The gross monthly income received is \$177.09 per month (based on \$2,125.00 annually). This information was obtained from a 2023 Schedule C and accompanying 2023 1099.
- iii. Earned job Income: [REDACTED], based on a 2023 W-2. The gross monthly income received is \$68.11 (based on \$817.28 annually).
- iv. Earned job Income: [REDACTED] ([REDACTED]), based on a 2023 W-2. The gross monthly income received is \$65.79 (based on \$789.47 annually).

VIII. DISCUSSION

According to DHS Exhibit #1, the Appellant's income was entered incorrectly. Based on DHS Exhibit #1, all the Appellant's income was entered as earned job income, despite the Appellant providing letters describing her income and providing a complete 2023 tax return verifying all her household income. The Appellant clearly informed DHS that some of her income was from self-employment, yet DHS did not enter it as such.

State regulation 218-RICR-20-00-1.5.4(D) states that the agency must not calculate self-employment income based on prior income (e.g., income tax return) when the household has experienced a substantial increase or decrease in income. With this case, the Appellant showed that more income was received from [REDACTED] in 2023 than in 2024, which means that DHS could use the 2023 tax return to verify the Appellant's income. The Appellant showed that she made \$19,200.00 in 2023 while only making about \$7,300.00 in 2024, as indicated by evidence submitted by DHS (exhibits #6, #7, and #10). Although the Appellant submitted self-employment ledgers for 2024, a more accurate depiction of the Appellant's income was given when the Appellant supplied her complete 2023 tax return, with attached Schedule Cs verifying self-employment income earned from [REDACTED] and [REDACTED], both were claimed under the business [REDACTED]. The Appellant further supplied W-2s and 1099s confirming the income she made in 2023. Despite having these documents, the Appellant's income was entered incorrectly, causing SNAP to be denied incorrectly.

How DHS calculates self-employment income is laid out in 218-RICR-20-00-1.5.4(D). Based on DHS evidence and testimony, it is clear that the Appellant's self-employment income was not calculated this way. Because of this, DHS must re-instate the Appellant's SNAP benefits from the date of closure, enter the Appellant's self-employment income correctly, enter the Appellant's earned income correctly, and redetermine eligibility.

IX. CONCLUSION OF LAW

After a careful review of the testimony and evidence present at the administrative hearing, it is clear that:

1. The Appellant's income was not entered correctly. The Appellant has earned job income (from 2023 W-2s) and self-employment income (from 2023 Schedule Cs and 1099s).
2. The Appellant provided DHS with a complete 2023 tax return with attached Schedule Cs as well as 2023 W-2s and 2023 1099s.
3. Based on 218-RICR-20-00-1.5.4, the Appellant's self-employment income was not calculated correctly.
4. Based on 218-RICR-20-00-1.6.3(A), all of the 2023 tax documents the Appellant supplied are adequate to determine the household's income.

X. DECISION

Based on the foregoing findings of fact, conclusions of law, evidence, and testimony, it is found that a final order is hereby entered that 1.) there is not sufficient evidence to support that the Appellant's household income was correctly entered and 2.) there is not sufficient evidence to support that SNAP was properly closed due to the Appellant's household income exceeding the income guidelines for SNAP.

XI. ACTIONS

1. DHS should reinstate SNAP from the date of closure of April 1, 2024.
2. DHS should correct all the household income, both earned job income and self-employment income.
3. DHS should implement these actions and issue a new BDN to the Appellant within thirty (30) days of the certification date on this decision.

APPEAL GRANTED

/s/ Robert Pelosi

EOHHS Appeals Officer

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NOTICE OF APPELLANT 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. EOHHS may grant, or the reviewing court may order, a stay upon the appropriate terms.

CERTIFICATION

I hereby certify that I mailed a true copy of the foregoing to [REDACTED], via regular mail, postage prepaid. Copies were sent via email to [REDACTED] and to DHS Representative Glenda Ramos, the DHS Appeals Unit, and the DHS Policy Office on this 3rd day of October, 2024.


