



State of New Jersey

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The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 03740-18 F.C.

AGENCY DKT. NO. C313126007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner challenges the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") recoupment due to an overissuance. The Agency asserts that Petitioner received SNAP benefits, to which she was not entitled, as the result of a failure to report earned income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 3, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was kept open until April 5, 2018, to allow Petitioner the opportunity to return with documents showing that she had notified the Agency that she had returned to work. On that date, additional testimony was heard, and the record closed. On April 12, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and AFFIRM the Agency's determination.

Pursuant to N.J.A.C. 10:87-11.1(b), "[i]f the [Agency] does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of [Intentional Program Violation], the [Agency] shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with procedures at N.J.A.C. 10:87-11.20(e)(2)."

In the instance of an overpayment of benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. A type of overpayment which is subject to recoupment is one which results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an IHE. See N.J.A.C. 10:87-11.20(e)(2). Another type of overpayment which is subject to recoupment is one which is caused by an action of, or inaction by, the Agency itself, called an "administrative error," or AE. See N.J.A.C. 10:87-11.20(e)(3).



Here, the record shows that during the months of January 2017, through October 2017, Petitioner received monthly Supplemental Security Income benefits, as well as earned income from employment, which put her over the maximum allowable income limits for receipt of SNAP benefits. See Initial Decision at 2-3; see also Exhibit R-4 at 31, 35, 37, and 38. Throughout this time, the Agency continued to issue, and Petitioner continued to receive and use, her monthly SNAP benefits in the amount of \$474.00 per month. See Initial Decision at 3; see also Exhibit R-4 at 56. As a result, the Agency calculated that Petitioner's household was overissued \$4,576 in SNAP benefits from January 2017, through October 2017, and seeks a recoupment of \$25 per month cash payments from Petitioner until that overissuance balance is paid in full. See Initial Decision at 3; see also Exhibit R-4 at 1-28, 36, 40, 47, 51-57. The ALJ found that at least once during that eight month period, Petitioner had advised the Agency that she was working, and that the Agency failed to enter that information into its system, resulting in Petitioner continuing to receive SNAP benefits for which she was not eligible. See Initial Decision at 3. Of note, Petitioner's claim that she reported her income to the Agency on August 18, 2017, was well past the 10-day requirement for reporting a change in income. See Initial Decision at 2; see also Exhibit P-1, and N.J.A.C. 10:87-5.2(a), -9.5(b)(2). Nevertheless, whether Petitioner's SNAP benefits overissuance was inadvertently due to her failure to report earned income timely, or due to an administrative error, the Agency is required to recoup such overissuance. See Exhibits R-2, R-3; see also N.J.A.C. 10:87-11.1(b), -11.20(e)(2), (3). Based on the record presented, as well as an opportunity to assess the credibility of the witnesses, the ALJ concluded that Petitioner's income exceeded the maximum allowable income threshold for receipt of SNAP benefits, that she received an overissuance of SNAP benefits from January 2017, through October 2017, in the amount of \$4,576, and that Petitioner should repay the sum of \$4,576 in SNAP benefits at the rate of \$25 per month. See Initial Decision at 3-4. I agree.

Further, I disagree with the ALJ's conclusion that N.J.A.C. 10:87-11.1(b), cited by the Agency on its "Notification Form" to Petitioner, was not the proper citation for an overpayment determination against Petitioner. See Initial Decision at 4; see also Exhibit R-1. Rather, I find that N.J.A.C. 10:87-11.1(b) as set forth above, properly put Petitioner on notice that the action being taken by the Agency was based on an overissuance of SNAP benefits, and the recoupment of that overissuance. See Exhibit R-1; see also N.J.A.C. 10:90-11.1(b). The Initial Decision is modified to reflect this finding.

I ORDER and direct that the Agency proceed to recoup the overissuance.

Accordingly, the Initial Decision in this matter is hereby MODIFY and the Agency's determination is AFFIRMED.

Officially approved final version. **APR 23 2018**

Natasha Johnson
Director

