



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
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NATASHA JOHNSON
Director

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 **05292-19 A.F.**

AGENCY DKT. NO. **S593434012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner challenges the correctness of the Respondent Agency's calculation of a Supplemental Nutrition Assistance Program ("SNAP") benefits recoupment due to an overissuance of SNAP benefits received as continued benefits pending the outcome of a prior fair hearing. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. The matter was initially scheduled for a hearing on May 7, 2019. On that day, after a pre-hearing conference, Petitioner's representative requested a 90-day adjournment, in order to appeal the scope of the fair hearing. The Respondent Agency consented to Petitioner's request to adjourn the hearing, and the hearing was rescheduled, but for an earlier date, as the underlying case occurred in 2016 and was not appealed further. On May 31, 2019, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, admitted documents into evidence, and the record then closed on that day. On June 6, 2019, the ALJ issued an Initial Decision, affirming the Agency's calculation of the overissuance of SNAP benefits to Petitioner.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and I hereby MODIFY the Initial Decision, and AFFIRM the Agency determination, based on the discussion below.

N.J.A.C. 10:87-8.7(a) states that a SNAP benefits recipient, contesting an Agency's adverse action, may receive continued benefits pending a fair hearing if the hearing request is timely made and the certification period has not expired. Further, "if the [Agency] action is upheld by the hearing decision, a claim against the household shall be established for all overissuances (see N.J.A.C. 10:87-11.20)." In the instance of an overpayment of benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. One type of overpayment which is subject to recoupment is called an Inadvertent Household Error, or "IHE." See N.J.A.C. 10:87-11.20(e)(2).

Here, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner had received an overissuance of SNAP benefits to which he was not



entitled. See Initial Decision at 4. Specifically, the ALJ found that Petitioner received on overissuance of SNAP benefits in the amount of \$970, during the months July 2016, through November 2016, due to an IHE. See Initial Decision at 2; see also Exhibit R-1, and N.J.A.C. 10:87-11.20(e)(2). Accordingly, the ALJ concluded that the Agency's calculation of the overpayment of SNAP benefits to Petitioner was correct. See Initial Decision at 4.

While I concur with the ALJ's conclusion, that the Agency's calculation of a \$970 overissuance of SNAP benefits to Petitioner was correct, I hereby take official notice of the fact that the overissuance at issue in the present matter was the result of continued benefits Petitioner had previously received while appealing a termination of his SNAP benefits in 2016. *Ibid.*; see also N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). More specifically, the records of DFD reflect that, on or about June 20, 2016, Petitioner appealed a termination of his SNAP benefits, and in a Final Agency Decision ("FAD"), issued October 12, 2016, the Agency's termination of Petitioner's SNAP benefits was affirmed. See OAL Docket Number HPW 9850-16. During the pendency of that appeal, Petitioner received continued SNAP benefits for the months of July 2016, through November 2016, totaling \$970. See N.J.A.C. 10:87-8.7(a). As the Agency's termination of Petitioner's SNAP benefits was upheld in October 2016, the continued SNAP benefits paid to Petitioner during the pendency of the hearing become an overissuance, for which the Agency now has a claim against Petitioner, and which must be repaid. *Ibid.*; see also Exhibit R-1, and N.J.A.C. 10:87-11.20. The Initial Decision is modified to reflect these findings.

Based on the foregoing, I ORDER and direct the Agency to proceed to recoup the overissuance.

By way of comment, only one adjournment of not more than 30 days is permitted in SNAP fair hearings. See N.J.A.C. 10:87-8.6(a)(4)(i).

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED, as outlined above.

Officially approved final version.

JUN 28 2019

Natasha Johnson

Director

