



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716
TRENTON, NJ 08625-0716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

NATASHA JOHNSON
Assistant Commissioner

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 08501-21 C.G.

AGENCY DKT. NO. C161949015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner challenges the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") recoupment due to an over-issuance. The Agency asserts that due to an administrative error, Petitioner received SNAP benefits to which he was not entitled, which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 5, 2021, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow the submission of requested records. When all documents were received by November 8, 2021, the record then closed.

On November 18, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that the Agency had provided Petitioner with SNAP benefits for himself and his two children for the months of May, June, and July, 2020. See Initial Decision at 2-3; see also Exhibits R-2, R-3, R-4. Upon discovery that it had already provided the mother of Petitioner's children with SNAP benefits for those same months, and because the mother had applied for SNAP benefits first, had shared joint custody with Petitioner, and had claimed that the two children resided with her, the Agency determined that it was the mother, and not Petitioner, who was entitled to said SNAP benefits and consequently, sought recoupment of those benefits from Petitioner. See Initial Decision at 2-3, 6; see also Exhibits R-5, R-6, and N.J.A.C. 10:87-2.2(a)(3), -2.2(d)(1), and -11.20. However, the ALJ found that, regardless of the fact that the mother had applied for SNAP benefits first, it was Petitioner who had sole court ordered residential custody of the two children for the months of May, June, and July 2020, and as such, in accordance with applicable regulatory authority, it was Petitioner who was eligible for SNAP benefits for himself and his two children during the months at issue, and not the mother. See Initial Decision at 4-6, 8-9; see also Exhibit R-4, and N.J.A.C. 10:87-2.2(d). Accordingly, the ALJ concluded that the Agency's recoupment of SNAP benefits from Petitioner is improper and must be reversed. See Initial Decision at 8-9; see also Exhibits R-5, R-6. I agree.

No Exceptions to the Initial Decision were received.



As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, at the time of the hearing, the issue of an untimely appeal of this matter by Petitioner was raised by the Agency. See Initial Decision at 3. The ALJ did not address this matter at the hearing, opining that said issue was not a transmitted issue for determination before the tribunal. Id. at 9. However, I note that, in accordance with applicable regulatory authority, "at any time during a certification period, a household may request a fair hearing to dispute its current benefit level of benefits." See N.J.A.C. 10:87-8.5. As Petitioner had requested the fair hearing during his SNAP certification period, I find that in accordance with N.J.A.C. 10:87-8.5, his request for a fair hearing was timely and proper.

By way of further comment, the Agency may seek recoupment of SNAP benefits from the children's mother in this matter. See N.J.A.C. 10:87-2.2(d), -11.20.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

NOV 24 2021

Natasha Johnson
Assistant Commissioner

