



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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 03623-21 A.H.

AGENCY DKT. NO. C065577015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of his Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits, as it contended that Petitioner's household monthly income exceeds the maximum permissible level for receipt of said benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 14, 2021, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. Petitioner was represented by counsel at the hearing, and did not appear. The record remained open to allow the parties to submit post-hearing briefs. On May 28, 2021, Petitioner filed a post-hearing brief. The Agency confirmed that it would not file a post-hearing brief, and the record closed on that day.

On June 7, 2021, the ALJ issued a very thorough and comprehensive Initial Decision, which found that the Agency had met its burden in establishing, by the preponderance of the credible evidence, that its decision to terminate Petitioner's SNAP benefits, due to earned income in excess of the eligibility level for a household of eight persons, was appropriate. See Initial Decision at 10.

Here, the record reflects that Petitioner was a SNAP benefits recipient. See Initial Decision at 2. The record further reflects that, Petitioner, and spouse, M.H., were employed as president and treasurer, respectively, of a company (hereafter, "Company"). Ibid. On October 2, 2020, the Agency, via an interoffice referral, became aware of allegations that Petitioner and M.H. owned, and were operating the Company, without reporting any business income. Id. at 3; see also Exhibit R-5 at 1. On October 7, 2020, Petitioner denied that he or M.H. owned the company, and that Petitioner's sibling, who had lived outside of the country, had owned the business. See Exhibit R-5 at 2. On or around February 18, 2021, the Agency, as part of an investigation, obtained via subpoena, six months of Petitioner's and A.H.'s personal and business records, as well as business records, including bank statements, from the Company. See Initial Decision at 3; see also Exhibits R-5 at 1, R-7, R-8. The Agency's investigation revealed, among other items, that from October, 2015, through October, 2020, Petitioner and M.H. deposited checks made out to the Company, into their personal accounts, that the signature card for the Company's bank account, showed only Petitioner's and M.H.'s signature, and that the



Company's business address was listed as Petitioner's home address. See Initial Decision at 3; see also Exhibits R-6, R-9. The Agency concluded that Petitioner had access to the Company's funds, even if Petitioner or A.H. did not own the business, and therefore, the profits of the business were attributed to Petitioner, for the purposes of calculating Petitioner's household income, in order to determine eligibility for SNAP benefits. See Initial Decision at 5; see also Exhibit R-5, and N.J.A.C. 10:87-5.4(a), -6.16. Accordingly, the Agency determined that, based upon its review of the documents received as part of its investigation, the gross monthly income attributable to Petitioner's household exceed the eligibility limit for household of Petitioner's size, and terminated Petitioner's SNAP benefits, effective April 1, 2021. See Initial Decision at 5; see also Exhibit R-1, N.J.A.C. 10:87-5-5(a), -6.16(b), -12.4, and Division of Family Development ("DFD") Instruction No. 20-09-04.

Petitioner contends that he and M.H. are employees of the Company, and the owner of the Company only provided them access to the Company's business bank account. See Initial Decision at 6. Petitioner further contends that his sibling owns the Company, and pays all taxes on the Company's income, and that the business income should not be attributed to Petitioner. *Id.* at 6, 7. Lastly, Petitioner argues that his position as a key employee with access to the Company's business bank accounts, does not disqualify him from SNAP benefits. *Id.* at 6.

The ALJ found, however, that frequent transfers of business funds into the personal accounts of Petitioner and M.H, the use of the Company's money by Petitioner and M.H. for personal reasons, and the mixing of business and personal funds, demonstrate that Petitioner and M.H. had dominion and control over the disposition of business funds. *Id.* at 9-10. The ALJ further found that Petitioner and M.H. could have taken steps to ensure that the Company's funds were kept separate and apart from their personal accounts, and because they neglected to do so, even if they are considered only employees, and not owners, of the Company, they control and have access to the Company's funds, and therefore, the income of the business is attributable to them for SNAP income eligibility purposes. *Id.* at 10.

Accordingly, the ALJ concluded that Petitioner's household income exceeded the maximum permissible level for receipt of SNAP benefits, and affirmed the Agency's determination to terminate Petitioner's SNAP benefits. *Ibid.*; see also Exhibit R-1, and N.J.A.C. 10:87-5.5(a), -6.16(b), 12.4. I agree.

No Exceptions to this Initial Decision were filed.

As Assistant Commissioner, DFD, 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 decision and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

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

Officially approved final version.

JUL - 1 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

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NATASHA JOHNSON
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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 03775-21 E.B.

AGENCY DKT. NO. C291450004 (CAMDEN COUNTY BOARD OF SOC. SVCS.)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency also seeks to recoup an overpayment of SNAP benefits in the amount of \$1,079, as it asserts that Respondent improperly used her SNAP benefits during a period from August, 2018, through January, 2019. On April 6, 2021, Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against her, and the proposed disqualification penalty, via certified mail, return receipt requested. Because Respondent failed to execute and return the waiver of her right to a hearing, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. On June 3, 2021, the Honorable Kathleen M. Calemme, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed.

On June 8, 2021, the ALJ issued an Initial Decision, which found that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent intentionally concealed facts, and participated in the transferring or trafficking of SNAP benefits. See Initial Decision at 10; see also N.J.A.C. 10:87-11.5(a)(4)(i), -(6). Specifically, the ALJ found no evidence in the record that Respondent used her Electronic Benefit Transfer ("EBT") card to obtain cash or consideration, other than eligible food. *Id.* at 9; see also Exhibit P-1 at 14-16, 71-81, 83-102, and N.J.A.C. 10:87-11.3 (a)(1), (2). The ALJ further found no evidence in the record that Respondent attempted to buy, sell, steal or otherwise misuse her EBT card for cash or consideration, directly, indirectly, or in complicity or collusion with others. See Initial Decision at 9. Accordingly, based upon the record presented, the ALJ concluded that Respondent did not commit an IPV, and reversed the Agency action disqualifying Respondent from receipt of SNAP benefits. See Initial Decision at 10; see also N.J.A.C. 10:87-11.2(a)(1). The ALJ further concluded that Respondent does not owe the \$1,079 repayment.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the Initial Decision in this matter, and following an independent evaluation of the record, I



concur with the ALJ's decision, and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter.

Officially approved final version. JUL - 1 2021

Natasha Johnson
Assistant Commissioner





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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 05030-21 D.M.

AGENCY DKT. NO. C564009002 (BERGEN COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that he violated motel/shelter rules by having unauthorized visitors stay in his room. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 16, 2021, the Honorable Danielle Pasquale, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 16, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of Petitioner, on June 17, 2021.

As Assistant Commissioner, Division of Family Development ("DFD"), 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 REVERSE the Agency's determination, based on the discussion below.

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient's actions, without good cause, which may include, but are not limited to, "threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents," or "violation of health and safety policies, including, but not limited to smoking in undesignated areas, burning candles or incense in the room, and the use of hotplates or other cooking devices in the room." See N.J.A.C. 10:90-6.3(c)(3), (5).

Also, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility's policies, such as visitation or curfew. See N.J.A.C. 10:90-6.3(e); see also DFD Instruction ("DFDI") 08-05-04 at 10. An adult EA benefits recipient who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, I agree with the ALJ's ultimate conclusion that Petitioner violated motel/shelter rules by having unauthorized visitors in his motel room, which thereby caused his termination from the motel



placement. See Initial Decision at 7-8; see also Exhibits R-5, R-8. However, in instances such as this, where a violation of motel/shelter rules is at issue, it is the type of violation which is controlling, not the fact that Petitioner caused his own homelessness. Ibid.; see also N.J.A.C. 10:90-6.1(c)(3), and N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this instance, Petitioner's act of allowing unauthorized visitors to stay in his room was a minor violation of motel rules, and there is nothing in the record to indicate that Petitioner had been terminated from another motel/shelter for the same, or another, violation. See Initial Decision at 1-5; see Exhibit R-8, and N.J.A.C. 10:90-6.3(e), (f). Additionally, there is nothing in the record to indicate that the condition/cleanliness of Petitioner's room rose to the level of a "health and safety violation," and moreover, the Agency's termination of Petitioner's EA benefits, as set forth in its adverse action notice, was not based on any such motel/shelter violation. See Initial Decision at 3-5; see also Exhibits R-2, R-8. Therefore, in accordance with applicable regulatory authority, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Exhibit R-2; see also N.J.A.C. 10:90-6.3(e), (f), and DFDI 21-02-03. The Initial Decision is modified to reflect these findings, and to clarify the applicable regulatory authority in this case.

By way of comment, Petitioner is advised that if he violates motel/shelter rules in the future, his EA benefits may be terminated and a six-month EA ineligibility penalty imposed.

By way of further comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency ("DCPP"), a copy of the Initial and Final Decisions shall be forwarded to DCPP. See Initial Decision at 3-4.

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

Officially approved final version. JUL - 1 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 04971-21 R.M.

AGENCY DKT. NO. C150200015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that his emergent situation was not due to circumstances beyond his control, and that he had the capacity to plan to avoid his emergent situation, but failed to do so, thereby causing his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 16, 2021, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 17, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), 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 MODIFY the Agency's determination, based on the discussion below.

In relevant part, pursuant to N.J.A.C. 10:90-6.3(i)(1), "[o]n a case-by-case basis and in consultation with DFD, the penalty may also be lifted when deemed appropriate by the county or municipal agency."

Here, the record reflects that, from approximately June 18, 2020, to April 2021, Petitioner had been receiving Unemployment Insurance Benefits ("UIB") in the amount of \$213 per week, and also received additional COVID related Federal funds of \$600 per week for a few weeks, and then \$300 additional per week thereafter. See Initial Decision at 2; see also Exhibit R-4. At the time Petitioner had been receiving UIB, he was residing with the mother of his friend and paying \$100 per week in rent. See Initial Decision at 2; see also Exhibit R-6. On or about December 2020, Petitioner knew that his friend's mother was selling her house and that he would have to leave the residence, yet he failed to plan for alternate housing. See Initial Decision at 2-3; see also Exhibit R-5. Moreover, Petitioner had sufficient funds to pay for alternate housing. See Initial Decision at 2; see also Exhibit R-4. Additionally, the record reflects that Petitioner could have continued to receive UIB after April 2021, but had failed to provide the Department of Labor with identification (driver's license or general government issued identification) required for continued UIB eligibility. See Initial Decision at 2; see also Exhibit R-3. When the house was sold on March 23, 2021, Petitioner then became homeless, and applied for EA benefits. See



Initial Decision at 2-3; see also Exhibits R-2, R-5. Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner, on the bases that his emergency was not beyond his control and that he had the capacity to plan to avoid his emergency, was proper and must stand. See Initial Decision at 3-4; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c)(1), (3). I agree.

The ALJ also affirmed the Agency's imposition of a six-month ineligibility penalty for EA benefits upon Petitioner. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1(c)(3). Although regulatory authority dictates that a six-month EA ineligibility penalty shall be imposed in this instance, based on an independent review of the record, it appears that the Agency had not imposed such a penalty. See Exhibit R-1. As such, in accordance with applicable regulatory authority, I hereby impose upon Petitioner a six-month EA ineligibility penalty. N.J.A.C. 10:90-6.1(c)(3). However, as the record indicates that the Agency may be willing to provide Petitioner with EA benefits in the form of a security deposit and first month's rent should he locate affordable housing, continue receipt of UIB, or become employed, the Agency is hereby advised that it is authorized to lift the six-month EA ineligibility penalty in order to provide Petitioner with such EA benefits. See Initial Decision at 3; see also N.J.A.C. 10:90-6.3(i)(1). The Initial Decision and the Agency's determination are modified to reflect these findings.

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

Officially approved final version.

JUL - 1 2021

Natasha Johnson
Assistant Commissioner





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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 04942-21 J.S.

AGENCY DKT. NO. S540764012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits and imposed a six-month EA ineligibility penalty, contending that he violated motel/shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for June 15, 2021, but was adjourned by consent of the parties. On June 16, 2021, the Honorable Jeffrey R. Wilson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On June 17, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, on the bases of an email from hotel management, photographs, a police report, and a "Hotel Incident Report" submitted by the Agency Investigator, the Agency terminated Petitioner's EA benefits, contending that he had violated motel rules by possessing a weapon, destruction of property, and engaging in threatening and/or disruptive behavior. See Initial Decision at 2-4; see also Exhibit R-1 at 10, 12, 14, 15, and N.J.A.C. 10:90-6.3(c)(1), (2), (3). Petitioner did not testify at the hearing. The ALJ found that the hotel communication, the photographs, the police report, and the Investigator's report were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record. See Initial Decision at 4-8; see also N.J.A.C. 1:1-15.5. Based on the foregoing, the ALJ concluded that the Agency had failed to produce competent evidence to establish its reasons for terminating Petitioner EA benefits. See Initial Decision at 8. Accordingly, the ALJ further concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. *Ibid.*; see also Exhibit R-1 at 16. I agree.

Exceptions to the Initial Decision were filed by the Agency on June 18, 2021.

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, pursuant to the testimony of Petitioner's mental healthcare provider, which the ALJ found to be credible, the Agency is advised to take Petitioner's particular mental health circumstances



into consideration in its determination of the most appropriate form of housing required to meet Petitioner's needs. See Initial Decision at 4-5, 8; see also Exhibit R-1 at 19, 20, 22, and N.J.A.C. 10:90-6.3(a)(1).

By way of further comment, Petitioner is advised that any future motel/shelter rule violation may result in the termination of his EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.3(c), (e).

Also, by way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

JUL - 6 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
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SARAH ADELMAN
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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 21-039208 Y.N.

AGENCY DKT. NO. R1879161 (THE CHILDREN'S HOME SOCIETY OF NJ)

On or about February 19, 2021, the Bureau of Administrative Review and Appeals ("BARA") received Petitioner's request for an Administrative Review. The Respondent Agency ("Agency") denied Petitioner's application New Jersey Cares for Kids/Child Care Assistance Program ("NJCK/CCAP") child care subsidy.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed this matter and I hereby AFFIRM the Agency's action.

It is well-established that parents receiving subsidized child care services are in need of child care services in order to remain employed or accept full-time employment, or to attend full-time educational and/or work/training programs. See N.J.A.C. 10:15-5.2(a), -5.3(a). In order to be eligible for subsidized child care services at initial determination, an applicant's maximum annual gross income must not exceed 200% of the Federal Poverty Level ("FPL") Guidelines. *Ibid.*; see also DFD Instruction ("DFDI") No. 21-03-02.

In the child care program, income is defined as the current gross income earned by all members of the family unit. See Child Care Operations Manual, III, General Provisions, Section (c), "Definitions," p. 10. It includes all earned and unearned income, and includes wages from salaries, overtime, tips, bonuses, commissions, winnings, and any other income required for federal and state tax reporting purposes. *Ibid.*

For child care purposes, self-employment income is earned income, received directly from one's own business, trade, or profession, instead of receiving a specified wage from an employer. See DFDI No. 16-12-01. In instances where the applicant is self-employed, the applicant must file a Schedule C with their 1040, and the Agency is required to utilize a standard deduction of 51%, in order to calculate the applicant's income and hours worked each week. *Ibid.* When broken down, the income/profit reflected on line 7 of the IRS Schedule C (Form 1040), must be equal to, or greater than, the hourly Federal minimum wage. *Ibid.* Income and wages are calculated as follows:



- a. A standard calculation deduction method is used by multiplying the gross income (noted on line 7 of IRS Schedule C (Form 1040)), by 51 percent to determine the amount of the deduction.
- b. Next, the gross income (noted on line 7 of IRS Schedule C (Form 1040)), is reduced by the amount of the deduction as calculated above to come up with the adjusted annual income.
- c. Further, the adjusted annual income, as determined in (b), is divided by 52 weeks, to determine the adjusted weekly income amount.
- d. Then, the adjusted weekly income amount will be divided by the minimum required hours to determine the hourly wage.
- e. Finally, the adjusted hour wage is compared to the Federal minimum wage to determine the number of hours worked per week. The Federal minimum wage can be found on the Federal Department of Labor website.

On April 8, 2021, BARA sent letters to Petitioner and the Agency requesting additional information necessary to conduct an Administrative Review. Both parties responded, providing the documentation which comprises the record for this Administrative Review.

A review of the documentation establishes that Petitioner and the co-applicant spouse, completed an application for a NJCK/CCAP subsidy on February 1, 2021, indicating that they had a family size of four. In support of their application, Petitioner and co-applicant provided, among other items, copies of their 2019 Federal Income Tax return, including a Schedule C form, since Petitioner is self-employed. Petitioner and co-applicant also included a letter from Petitioner's spouse's employer, indicating her monthly salary, and that she works only eleven months of a year. After reviewing Petitioner's submissions, the Agency determined that Petitioner's adjusted annual income from self-employment totaled \$31,999.45 ($\$65,305 \times .51 = \$33,305.55$; $\$65,305 - \$33,305.55 = \$31,999.45$); that Petitioner's spouse's annual income from employment totaled \$28,600 ($\$2,600 \times 11$ months); and that Petitioner and co-applicant received \$772 in dividend income. Petitioner and co-applicant's total annual gross income was \$61,371.45 ($\$31,999.45 + \$28,600 + \772). At the time of Petitioner and co-applicant's application for the NJCK subsidy, the maximum allowable annual gross family income at initial determination, for a family of 4, was \$52,400. See 2020-2021 Income Eligibility Schedules, effective March 1, 2020. Based upon its calculation, the Agency determined that Petitioner and co-applicant's total annual gross income exceeded the maximum allowable level to be eligible for the subsidy, and denied Petitioner and co-applicant's application, by notice dated February 12, 2021.

I have reviewed the record, and based on the documentation presented, and for the reasons as outlined above, I find that the Agency's decision to deny Petitioner's application was proper and must be affirmed. Petitioner is without prejudice to reapply for a child care subsidy should circumstances warrant.

Accordingly, the Agency's decision in this matter is hereby AFFIRMED.

Officially approved final version.

JUL - 6 2021

Natasha Johnson
Assistant Commissioner





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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 21-037840 D.D.

AGENCY DKT. NO. R1875065 (BERGEN COUNTY OFFICE FOR CHILDREN)

On or about December 22, 2020, the Bureau of Administrative Review and Appeals ("BARA") received Petitioner's request for an Administrative Review. The Respondent Agency ("Agency") denied Petitioner's application for New Jersey Cares for Kids/Child Care Assistance Program ("NJCK/CCAP") child care subsidy because Petitioner's self-employment did not meet the minimum required hours as per the program requirements.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed this matter and AFFIRM the Agency's action.

It is well-established that parents receiving subsidized child care services are in need of child care services in order to remain employed or accept full-time employment, or to attend full-time educational and/or work/training programs. See N.J.A.C. 10:15-5.2(a), -5.3(a). Full-time employment, for child care eligibility, means employment that totals 30 or more hours per week. See Child Care Operations Manual, III, General Provisions, Section (c), "Definitions;" see also N.J.A.C. 10:15-1.2 and DFD Instruction ("DFDI") No. 9-6-7.

For child care purposes, self-employment income is earned income, received directly from one's own business, trade, or profession, instead of receiving a specified wage from an employer. See DFDI No. 16-12-01. In instances where the applicant is self-employed, the applicant must file a Schedule C with their 1040, and the Agency is required to utilize a standard deduction of 51%, in order to calculate the applicant's income and hours worked each week. Ibid.

On January 28, 2021, BARA sent letters to Petitioner and the Agency, requesting additional information necessary to complete an Administrative Review. Both parties responded accordingly. The documents provided by Petitioner and the Agency comprise the record for this Administrative Review.

A review of the documentation establishes that Petitioner applied for a NJCK/CCAP subsidy on September 17, 2020. Among the documents submitted to the Agency, Petitioner, because she is self-employed, provided a copy of her tax returns, which included a Schedule C form. After completing the



required calculations for a self-employed applicant, the Agency denied Petitioner's application on the basis that Petitioner's self-employment hours were below the required 30 hours per week.

To be eligible for child care, the self-employment income must have been reported to the Internal Revenue Service ("IRS"). Ibid. When broken down, the income/profit reflected on line 7 of the IRS Schedule C (Form 1040), must be equal to, or greater than, the hourly Federal minimum wage. Ibid. Income and wages are calculated as follows:

- a. A standard calculation deduction method is used by multiplying the gross income (noted on line 7 of IRS Schedule C (Form 1040)), by 51 percent to determine the amount of the deduction.
- b. Next, the gross income (noted on line 7 of IRS Schedule C (Form 1040)), is reduced by the amount of the deduction as calculated above to come up with the adjusted annual income.
- c. Further, the adjusted annual income, as determined in (b), is divided by 52 weeks, to determine the adjusted weekly income amount.
- d. Then, the adjusted weekly income amount will be divided by the minimum required hours to determine the hourly wage.
- e. Finally, the adjusted hour wage is compared to the Federal minimum wage to determine the number of hours worked per week. The Federal minimum wage can be found on the Federal Department of Labor website.

Based upon the above, Petitioner's self-employment income, utilizing the gross income listed on line 7 of the Schedule C form, totals \$15,600. Next, the gross income is multiplied by the 51% standard deduction, $\$15,600 \times .51 = \$7,956$. This deduction is subtracted from \$15,600 to calculate Petitioner's adjusted annual income, $\$15,600 - \$7,956 = \$7,644$.

Next, Petitioner's adjusted annual income of \$7,644 is divided by 52 weeks to calculate Petitioner's adjusted weekly income, $\$7,644/52 = \147 . This amount is then divided by the minimum amount of hours required at an initial application, or 30, to equal \$4.90 per her hour. Since \$4.90 does not equal, or exceed, the Federal minimum wage of \$7.25, Petitioner is not eligible for subsidy. Further, after the proper self-employment calculations are applied, Petitioner works only 20.28 hours per week ($\$147 / \7.25), which is below the 30 hours per week required for eligibility for the subsidy.

Based on the foregoing, I find that Petitioner is ineligible for a child care subsidy. As such, I hereby AFFIRM the Agency's denial of Petitioner's application for a child care subsidy.

By way of comment, Petitioner included documents with her response to BARA's January 28, 2021, request for same. Specifically, Petitioner included copies of her 2020 IRS Income Tax Return, including a 2020 Schedule C (Form 1040). I am not permitted to consider documents which were not submitted to the local Agency for its review and evaluation.

By way of further comment, Petitioner is without prejudice to reapply for a child care subsidy should her circumstances change.

Accordingly, the Agency's decision in this matter is hereby AFFIRMED.

JUL - 6 2021

Officially approved final version.

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

PO BOX 716
TRENTON, NJ 08625-0716

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 05116-21 J.M.

AGENCY DKT. NO. S618023012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals the Respondent Agency termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF"), and Emergency Assistance ("EA"), benefits, and the reduction of Petitioner's Supplemental Nutrition Assistance Program ("SNAP") benefits. Petitioner's WFNJ/TANF benefits were terminated due to the household's increase in unearned income over the maximum allowable benefit level, and Petitioner's EA benefits were terminated because Petitioner was no longer a WFNJ, nor a Supplemental Security Income ("SSI"), benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 23, 2021, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On June 24, 2021, the ALJ issued an Initial Decision, affirming the Agency's terminations of Petitioner's WFNJ/TANF and EA benefits.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and AFFIRM the Agency's terminations of Petitioner's WFNJ/TANF and EA benefits, based on the discussion below.

Financial eligibility for Work First New Jersey ("WFNJ") benefits is determined based upon the assistance unit's countable income, both earned and unearned, as well as countable resources. See N.J.A.C. 10:90-3.1(a). Pursuant to N.J.A.C. 10:90-3.2(a), in order to determine initial financial eligibility for WFNJ benefits for a new applicant, reapplicant or reopened case, "all countable income available to the assistance unit shall be considered and compared to the initial maximum allowable income levels for the appropriate eligible assistance unit size in Schedule I at N.J.A.C. 10:90-3.3." See also N.J.A.C. 10:90-3.1(b). Further, "[i]f the assistance unit has income equal to or less than the initial maximum allowable income level for the appropriate unit size, then WFNJ/TANF initial financial eligibility exists." See N.J.A.C. 10:90-3.2(a). For an assistance unit of five, such as Petitioner's, effective July 1, 2019, the maximum allowable benefit level is \$728. See N.J.A.C. 10:90-3.3(a); see also DFD Informational Transmittal ("IT") No. 19-21 (hereinafter referenced as Exhibit R-5).



Only WFNJ cash assistance recipients and Supplemental Security Income ("SSI") benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

Here, Petitioner contests the termination of his WFNJ/TANF benefits, effective April 1, 2021, due to excess unearned income, in the form of lump sum UIB payments, which put Petitioner over the maximum income level allowable for continued receipt of WFNJ/TANF benefits. See Initial Decision at 2-3; see also Exhibit R-2 at 1, and Exhibit R-3 at 3. Petitioner does not dispute the receipt of the lump sum UIB payment. See Initial Decision at 3. As Petitioner was no longer a WFNJ benefits recipient, the Agency also terminated Petitioner's EA benefits effective April 13, 2021. See Initial Decision at 3; see also Exhibit R-2 at 6. Based on the record presented, the ALJ determined that Petitioner received UIB in March 2021, which exceeded the maximum allowable benefit level for an assistant unit of five, \$728, and therefore, Petitioner was ineligible for WFNJ/TANF benefits, and the Agency's termination of said benefits was proper and must stand. See Initial Decision at 5; see also Exhibit R-5 at 3. I agree. Additionally, as Petitioner was no longer a WFNJ, nor an SSI, benefits recipient, the ALJ concluded that Petitioner was also no longer eligible for EA benefits. See Initial Decision at 5; see also N.J.A.C. 10:90-6.2(a). I also agree.

By way of comment, the issue pertaining to a reduction of Petitioner's SNAP benefits was not addressed by the ALJ, due to the Petitioner having received an increase in SNAP benefits. As such, that issue is deemed moot and not addressed in this Final Agency Decision.

By way of further comment, Petitioner is without prejudice to reapply for WFNJ benefits at such time as his UIB ceases.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's terminations of Petitioner's WFNJ/TANF and EA benefits are AFFIRMED, as outlined above.

Officially approved final version.

JUL - 6 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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 03776-21 A.B.

AGENCY DKT. NO. C143192001 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)

Petitioner appeals from the Respondent Agency's denial of her application for Supplemental Nutritional Assistance Program ("SNAP") benefits. The Agency denied Petitioner's application for SNAP benefits, contending that Petitioner had failed to provide information and documentation necessary to determine eligibility. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 4, 2021, the Honorable Jeffrey R. Wilson, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On June 8, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reveals that Petitioner applied for SNAP benefits on February 25, 2021. See Initial Decision at 2. The record further reflects that, when Petitioner failed to submit requested documentation, the Agency sent Petitioner a Request for Contact, regarding the information and documentation needed. *Id.* at 2-3; see also Exhibit R-2. When the requested documentation was not received by the date specified, the Agency issued a denial notice to Petitioner. See Initial Decision at 3; see also Exhibit R-1 at 1. While Petitioner acknowledged receiving the Request for Contact, and maintained that she had submitted all requested verification in a timely fashion, she was not able to substantiate her representations. See Initial Decision at 3. Based on the evidence presented, the ALJ concluded that Petitioner had not provided the information required to be verified in order to determine eligibility, and as such, the Agency's denial of SNAP benefits to Petitioner was proper and must stand. See Initial Decision at 4, 5; see also Exhibit R-1 at 1, and N.J.A.C. 10:87-2.2, -2.19. 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, Petitioner is without prejudice to reapply for SNAP benefits in her current county of residence, but must provide all information and documentation requested in order to determine eligibility.

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



Officially approved final version.

JUL - 6 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
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SARAH ADELMAN
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SHEILA Y. OLIVER
Lt. Governor

NATASHA JOHNSON
Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 03630-21 J.R.

AGENCY DKT. NO. C086525015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner EA benefits, contending that her emergent situation was not due to circumstances beyond her control. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 18, 2021, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open to allow the parties an opportunity to provide additional information, and upon receipt of same from the parties on May 18, 2021, the record then closed.

On June 8, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the ALJ found that Petitioner was not seeking EA benefits due to the loss of her Section 8 housing voucher, which was terminated for failure to advise the housing authority that an unauthorized roommate was residing with her, but rather, Petitioner applied for EA benefits approximately a year and four months after said voucher had been terminated. See Initial Decision at 3-4, 7-8, see also Exhibits R-2, R-4, and R-5. Specifically, the ALJ found that Petitioner's roommate had continued to pay the rent for more than a year after said Section 8 housing voucher had been terminated, and until such time as he had advised Petitioner that he could no longer continue to pay the full month's rent. See Initial Decision at 5-8; see also Exhibits R-5, R-6, and R-8. Based on the foregoing, the ALJ further found that Petitioner's loss of said housing voucher was too remote in time, with no nexus with respect to her need for housing assistance, and as such, the Agency's denial of EA benefits to Petitioner on the basis that her emergent situation was not due to circumstances beyond her control was improper. See Initial Decision at 8-10; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c). The ALJ also found that, at the time Petitioner applied for EA/TRA benefits, she was a Work First New Jersey/General Assistance ("WFNJ/GA") benefits recipient and did not have sufficient income to pay her portion of the rent. See Initial Decision at 2, 4-6. However, the ALJ found that Petitioner is not homeless or imminently homeless, and on that basis, concluded that the Agency's denial of EA benefits to Petitioner was proper and must stand. *Id.* at 8-10; see also Exhibit R-1. I agree. Further, the ALJ concluded that a six-month period of ineligibility should not be imposed upon Petitioner, and that she may reapply for EA benefits should her circumstances change. See Initial Decision at 11. I also 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.

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

Officially approved final version.

JUL - 8 2021

Natasha Johnson

Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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 04128-21 A.R.

AGENCY DKT. NO. C090089018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency’s termination of Emergency Assistance (“EA”) benefits in the form of Temporary Rental Assistance (“TRA”). The Agency terminated Petitioner’s EA/TRA benefits, contending that she was no longer eligible for Work First New Jersey/General Assistance (“WFNJ/GA”) benefits, due to receipt of Supplemental Security Income (“SSI”) benefits, and that her SSI benefits exceeded her monthly housing costs. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 1, 2021, the Honorable Sarah G. Crowley, Administrative Law Judge (“ALJ”), held a telephonic plenary hearing, took testimony, and admitted documents. On June 3, 2021, the ALJ issued an Initial Decision, affirming the Agency’s determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development (“DFD”), 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, based on the discussion below.

Pursuant to N.J.A.C. 10:90-6.1(a)(1), EA benefits shall be made available “[w]hen shelter costs equal or exceed total recorded income to the WFNJ or SSI assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses[.]”

Only WFNJ cash assistance recipients and SSI recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

Here, the record reflects, and Petitioner acknowledged, that on April 12, 2021, she began receiving monthly SSI benefits in the amount of \$825.25, and that her monthly rent including utilities is \$750. The record also reflects that Petitioner receives Supplemental Nutrition Assistance Program (“SNAP”) and Medicaid benefits, and further, that she received a lump sum SSI benefits payment of \$2,382. See Initial Decision at 2-3; see also Exhibit R-1 at 4, 5. Based on foregoing, the ALJ concluded that Petitioner’s monthly SSI benefits exceeded the WFNJ/GA benefits amount allowable for said benefits eligibility, and affirmed the Agency’s termination of Petitioner’s WFNJ/GA benefits. See Initial Decision at 3-4;



see also Exhibit R-1 at 3, and N.J.A.C. 10:90-3.5(b). Although not a transmitted issue, based on an independent review of the records, I agree with the ALJ's conclusion. The ALJ further concluded that because Petitioner was no longer eligible for WFNJ/GA benefits, she was also no longer eligible for EA/TRA benefits, and on that basis, affirmed the Agency's termination of Petitioner's EA/TRA benefits. See Initial Decision at 4; see also R-1 at 2. I respectfully disagree with this conclusion. Rather, I find that, as an SSI benefits recipient, Petitioner would have been eligible for continued EA/TRA benefits. See Initial Decision at 2-3; see also Exhibit R-1 at 4, and N.J.A.C. 10:90-6.2(a). However, because Petitioner's monthly SSI benefits exceed her housing costs, I find that she is ineligible for EA/TRA benefits. See Initial Decision at 2-3; see also Exhibit R-1 at 5, and N.J.A.C. 10:90-6.1(a)(1). On that basis, I find that the Agency's termination of Petitioner's EA/TRA benefits was proper and must stand. See Exhibit R-2. The Initial Decision is modified to reflect this finding.

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

Officially approved final version.

JUL - 8 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 04387-21 Z.B.

AGENCY DKT. NO. C043546019 (SUSSEX COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") benefits recoupment, due to an overissuance. The Agency asserts that Petitioner received SNAP benefits, to which he was not entitled, as the result of a failure to accurately report his household composition. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 22, 2021, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed. On June 24, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed by either party.

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 hereby ADOPT the ALJ's Initial Decision and AFFIRM the Agency action.

Every SNAP application shall be made on behalf of a household. See N.J.A.C. 10:87-2.1. It is critically important to determine exactly who comprises the SNAP household, since all considerations of eligibility will follow from this initial determination. *Ibid.*

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 one which results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, the record reflects that, on November 14, 2017, Petitioner filed an application for SNAP benefits. See Initial Decision at 2. Petitioner indicated that he lived with a friend, G.B., that he paid no rent, and that he was disabled. *Ibid.* On or around September 30, 2019, the Agency became aware that G.B. was Petitioner's ex-wife, and that she and U.B., their 17 year-old child, were living



with Petitioner. Id. at 3; see also Exhibit R-1 at 6. Thereafter, pursuant to an Agency investigation regarding whether Petitioner had included all family members to his SNAP benefits application, the Agency discovered that Petitioner failed to report earned income. See Initial Decision at 3; see also Exhibit R-1 at 6, 80-81. The investigation further revealed that Petitioner did not report unearned income, specifically, Unemployment Insurance Benefits ("UIB"), received for the period beginning June, 2019, through August, 2019. See Initial Decision at 3; see also Exhibit R-1 at 79.

Petitioner and G.B. testified that they were divorced, and that the property where they resided belonged solely to G.B., per their Property Settlement Agreement. See Initial Decision at 3; see also Exhibit R-1 at 74-77. G.B. testified further that she filed her income tax returns separate from Petitioner, and that she and U.B. prepared meals and ate separate from Petitioner. See Initial Decision at 3; see also Exhibit R-1 at 13. G.B. also testified that she does not charge Petitioner rent, or for the cost of utilities or insurance, and that she only charges Petitioner for heat. See Initial Decision at 4. The ALJ found that Petitioner and G.B., function as a couple, and that the sharing of expenses, such as housing costs, utilities, transportation, and the likely sharing of food, demonstrates that they are a single household. See Initial Decision at 7-8; see also N.J.A.C. 10:87-2.2(a)(2), and N.J.A.C. 10:90-15.1. The ALJ further found that Petitioner cannot claim to be his own separate household, because he resides in a residence wherein his minor child is residing. See Initial Decision at 4; see also N.J.A.C. 10:87-2.2(c)(1).

Based on the evidence presented, the ALJ concluded that Petitioner's and G.B.'s incomes must be considered together for the purpose of ascertaining eligibility for SNAP benefits, and that Petitioner was required to, but did not, include G.B.'s income in his application for SNAP benefits. See Initial Decision at 8; see also Exhibit R-1 at 14-15, and N.J.A.C. 10:87-5.2(a)(1). The ALJ further concluded that, from November, 2017, through October, 2019, SNAP benefits, in the amount of \$4,565, were improperly issued to Petitioner, to which he was not entitled, and which must be repaid. See Initial Decision at 9; see also Exhibit R-1 at 1-5, and N.J.A.C. 10:87-2.2, -2.14, -11.20. I agree. The ALJ also concluded that it is the responsibility of Petitioner and G.B. to repay the overissuance. See Initial Decision at 9; see also N.J.A.C. 10:87-11.20(d)(1). I also agree.

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

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

Officially approved final version.

JUL - 8 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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 02594-21 P.D.

AGENCY DKT. NO. C033578021 (WARREN CO. DIV TEMP ASST & SOC. SVCS)

Petitioner appeals the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") benefits 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 accurately report her household composition. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 30, 2021, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents. The hearing was paused due to the ALJ's recorder running out of recording capacity. On May 25, 2021, the hearing resumed, concluded, and the record then closed. On June 3, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed by either party.

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 hereby ADOPT the ALJ's Initial Decision and AFFIRM the Agency action.

Every SNAP application shall be made on behalf of a household. See N.J.A.C. 10:87-2.1. It is critically important to determine exactly who comprises the SNAP household, since all considerations of eligibility will follow from this initial determination. *Ibid*.

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 one which results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, the record reflects that, on October 28, 2018, Petitioner filed a recertification application for SNAP benefits, for herself and her three children. See Initial Decision at 3; see also Exhibit R-4 at 1-12. Prior



to that date, on or around August 31, 2018, the Agency received a complaint alleging that Petitioner's boyfriend, R.H., also the father of two of Petitioner's children, lived with Petitioner. See Exhibits R-1, R-13. Thereafter, pursuant to an Agency investigation regarding whether R.H. resided in the same household as Petitioner, the Agency discovered that R.H. owned the home Petitioner had listed as her residence. See Initial Decision at 3; see also Exhibits R-2 at 1-2, and R-13. The investigation also revealed that R.H. received mail at Petitioner's home, and that R.H.'s car was registered to the same address Petitioner had listed as her home address. See Initial Decision at 3, 4; see also Exhibits R-2 at 9, R-13. Additionally, Agency records revealed that R.H. applied for Unemployment Insurance Benefits using Petitioner's address, and that R.H.'s address on file with his employer, has always been the same as Petitioner's address. See Exhibit R-2 at 10-12, 13. Based on the evidence presented, the ALJ found that R.H. had lived in the same home as Petitioner for the entire period that Petitioner had received an overissuance of SNAP benefits, and therefore, Petitioner was required to report his presence and his income to the Agency, but did not do so. See Initial Decision at 5, 6; see also Exhibits R-6, R-7, R-8, and N.J.A.C. 10:87-2.2, -2.14. Accordingly, the ALJ concluded that, from August, 2014, through January, 2019, Petitioner received an overissuance of SNAP benefits in the amount of \$13,541 to which she was not entitled, and which must be repaid. See Initial Decision at 6; see also Exhibit R-9, and N.J.A.C. 10:87-2.2, -2.14, -11.20. I agree.

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

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

Officially approved final version.

JUL 13 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

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SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 02270-21 R.N.

AGENCY DKT. NO. C171966015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner's application for SNAP benefits contending that Petitioner's countable household income exceeded the maximum permissible level for receipt of said benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 7, 2021, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. The record remained open for post-hearing submissions, and upon receipt of same, the record then closed on May 14, 2021. On June 17, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were received from Petitioner on June 15, 2021.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, the ALJ's Initial Decision is hereby MODIFIED and the Agency determination is AFFIRMED, based on the discussion below.

Regulatory authority applicable to SNAP benefit cases, defines income as "all income from whatever source unless such income is specifically excluded." See N.J.A.C. 10:87-5.3.

N.J.A.C. 10:87-5.9(a)(2)(iv), states, in pertinent part, "Moneys which are legally obligated and otherwise payable to the household but which are diverted by the provider of the payment to a third party for a household expense shall be counted as income and not excluded as a vendor payment. The distinction is whether or not the person or organization making the payment on behalf of the household is using the funds which otherwise would have to be paid to the household."

In accordance with N.J.A.C. 10:87-6.16(d)(2), in determining SNAP benefits eligibility, households that do not contain an elderly or permanently disabled household member must meet both the gross income test, as well as the net income test, meaning that the respective income amounts must be below the established standards. See also N.J.A.C. 10:87-12.3, -12.4.



Gross income is determined by adding together the household's monthly earned and unearned income, minus any earned income exclusions. See N.J.A.C. 10:87-6.16(b), (b)(1). That total gross income amount is then utilized to determine a household's SNAP eligibility in accordance with N.J.A.C. 10:87-6.16(d)(1) and (2). The maximum gross income for a household of six persons, such as Petitioner's, is \$5,421. See DFD Instruction ("DFDI") 20-09-04 at 13.

Here, the primary contested issue was the diversion of Petitioner's HUD payment of \$1312, and a contribution of \$738.47 from a family member towards Petitioner's mortgage, to a management company, who then submits the full mortgage payment to the bank holding the mortgage. See Initial Decision at 2-3. The record further reflects that prior to this arrangement, which began in January, 2021, Petitioner paid the mortgage using the family's checking account. *Id.* at 3; see also Exhibit R-4. While Petitioner asserted that the payments to the management company constituted vendor payments, and therefore should be excluded as income to the household, the ALJ found that the arrangement, began in January, 2021, was a diversion of the funds, and as such, must be included as income to the household. See Initial Decision at 7; see also N.J.A.C. 10:87-5.9(a)(2)(iv). I agree.

With the inclusion of the diverted funds in the calculations to determine eligibility, it is clear that the household's income exceeds the maximum gross income level of \$5,421 for SNAP eligibility. See Exhibit R-2; see also DFDI 20-09-04 at 13. Based upon an independent review of the record, the diverted funds of \$1312 and \$738.47, total \$2050.47. See Exhibits R-4 and R-6. It appears that a lump sum donation of \$3000, see Exhibit R-8, was budgeted to a monthly amount of \$250, and when added to mortgage contributions of \$2050, equals \$2300, which is reflected category of "Contributions" on the calculations page. See Exhibit R-2. The "other income" category on the calculations page shows an amount of \$387, which is the monthly budgeted amount of a weekly scholarship received by the household, $\$86 \times 4.333 = \372.64 , and a budgeted monthly amount of \$14.33 as the result a one-time payment of \$172, or \$386.97 total. See Exhibit R-9 at 5. Added to that amount is Petitioner's monthly earned income, which was calculated to be \$3,333. See Exhibits R-2, R-9. Adding the earned income, to the unearned income from contributions, $\$3333 + \$2300 + \$387$ results in a household gross income of \$6,020. See Exhibit R-2. This amount, in and of itself, is above the permissible maximum gross income for receipt of SNAP benefits for Petitioner's household size, \$5,421, and therefore, Petitioner's household is not eligible for SNAP benefits. See DFDI 20-09-04 at 13. Based on the foregoing, I agree with the ALJ's final conclusion in this matter that the Agency correctly denied Petitioner SNAP benefits. I do note that it appears that several other monthly contributions to the household may have not been included in the Agency's calculations, more specifically, \$461.53, \$300, and \$300. See Exhibits R-6, R-7 and R-8. However, as outlined above, even without the inclusion of these other monthly contributions, the household is clearly ineligible to receive SNAP benefits. The Initial Decision is modified to include the above analysis and findings.

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

Officially approved final version.

JUL 13 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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 04388-21 S.D.

AGENCY DKT. NO. C250826020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Supplemental Nutrition Assistance Program ("SNAP") benefits, at recertification. The Agency terminated Petitioner's SNAP benefits at recertification, contending that Petitioner's countable household income exceeded the maximum permissible level for receipt of said benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 11, 2021, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. The record remained open to allow the Agency to submit documentation and then closed on June 14, 2021. On June 21, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, the ALJ's Initial Decision is hereby ADOPTED and the Agency determination is AFFIRMED, based on the discussion below.

Regulatory authority applicable to SNAP benefit cases, defines income as "all income from whatever source unless such income is specifically excluded." See N.J.A.C. 10:87-5.3. Additionally, for SNAP benefits cases, unearned income includes survivors, disability, and Social Security benefits for both adults and children in the household. See N.J.A.C. 10:87-5.5(a)(2).

In accordance with N.J.A.C. 10:87-6.16(b)(1), households which contain an elderly or permanently disabled individual, as defined by N.J.A.C. 10:87-2.34, must meet the net income test for SNAP eligibility. N.J.A.C. 10:87-6.16(d)(2), states that households that do not contain an elderly or permanently disabled household member must meet both the gross income test, as well as the net income test, meaning that the respective income amounts must be below the established standards. See also N.J.A.C. 10:87-12.3, -12.4.



Here, the record reflects that, at recertification, Petitioner submitted an application for SNAP benefits solely for herself, and therefore, Petitioner was treated as a SNAP household of one person. See Initial Decision at 3; see also Exhibit R-2. The record further shows that, at the time of Petitioner's recertification, Petitioner confirmed that she was receiving \$2,065 in monthly Retirement, Survivors and Disability Insurance ("RSDI") benefits. See Initial Decision at 2; see also Exhibit R-2. After applying the standard deduction of \$167 for a household of one, with no other expenses, such as rent, Petitioner's net income, for SNAP eligibility purposes, is determined to be \$1,898. See N.J.A.C. 10:87-6.16. For SNAP benefits eligibility, the maximum net income level for a household of one person is \$1,064. See DFD Instruction ("DFDI") 20-09-04 at 12. As Petitioner's calculated net income of \$1,898 exceeds the maximum income eligibility amount of \$1,064, Petitioner is no longer eligible for SNAP benefits. Ibid. Based on the foregoing, I agree with the ALJ that the Agency's termination of Petitioner's SNAP benefits, at recertification, for excess income over the net income eligibility standard, was proper and must stand. See Initial Decision at 3; see also Exhibit R-1.

By way of comment, based on the testimony presented, it appears that Petitioner may not be a separate household, for SNAP benefits purposes, from her sister's family, and as such, Petitioner may apply for SNAP benefits together with her sister's family as one household. See Initial Decision at 2; see also N.J.A.C. 10:87-2.2(a)(3).

Accordingly, the Initial Decision in this matter is hereby ADOPTED and the Agency's determination is AFFIRMED, as outlined above.

JUL 13 2021

Officially approved final version.

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
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DEPARTMENT OF HUMAN SERVICES
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NATASHA JOHNSON
Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 04126-21 D.B.

AGENCY DKT. NO. S462293012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits: The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that he violated motel/shelter rules by cooking in his motel room. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 8, 2021, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On June 24, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the ALJ found, and the record substantiates, that Petitioner knowingly violated motel health and safety policy rules by cooking in his motel room, resulting in his termination from his motel placement. See Initial Decision at 4-5, 7-9; see also Exhibits R-8, R-10, R-11, R-13 and N.J.A.C. 10:90-6.3(c) (5). Specifically, the ALJ found that the Agency Investigator's first hand observations, "Hotel Incident Form," photographs, and testimony provided competent evidence to substantiate the fact that Petitioner had been cooking in his motel room, without permission, on a number of occasions in violation of motel rules. See Initial Decision at 7-9; see also Exhibit R-11. The ALJ also found credible the Agency representatives' testimony that Petitioner had admitted to them that he had been cooking in his motel room. See Initial Decision at 5, 8-9. Although Petitioner claimed that he had permission from motel management to cook in his room, that the cooking appliances had not been used for cooking, that he was required to cook his own food due to health issues, and that he could not remember admitting to the Agency Investigator or the Agency representatives that he had been cooking in his room, the ALJ found that Petitioner had failed to provide any corroborative evidence or credible testimony to substantiate those claims. *Id.* at 7-9. Of note, after Petitioner's motel termination, the Agency had offered him two alternative motel placements, but Petitioner refused said placements. *Id.* at 5, 10. Based on the foregoing, the ALJ found that Petitioner had violated motel/shelter rules, without good cause, and as such, concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. *Id.* at 9-12; see also Exhibit R-14, and N.J.A.C. 10:90-6.3(c)(5). 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, as Petitioner has been receiving continued assistance pending the outcome of this fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of the issuance of this Final Agency Decision. See Initial Decision at 12.

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

Officially approved final version.

JUL 13 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
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TRENTON, NJ 08625-0716

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 03902-21 W.W.

AGENCY DKT. NO. C085849020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/General Assistance ("WFNJ/GA"), and the termination of Emergency Assistance ("EA"), benefits. The Agency denied Petitioner WFNJ/GA benefits because the household's earned income allegedly exceeded the maximum benefit eligibility level for receipt of WFNJ/GA benefits, and terminated Petitioner's EA benefits, because Petitioner was no longer a WFNJ, nor a Supplemental Security Income ("SSI"), benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 28, 2021, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On June 8, 2021, the ALJ issued an Initial Decision, reversing the Agency's EA determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

Financial eligibility for Work First New Jersey ("WFNJ") benefits is determined based upon the assistance unit's ("AU") countable income, both earned and unearned, as well as countable resources. See N.J.A.C. 10:90-3.1(a). Pursuant to N.J.A.C. 10:90-3.1(c), once initial financial eligibility for a WFNJ/GA benefits recipient is found to exist, financial eligibility continues to exist so long as the total countable income of the WFNJ/GA AU, with benefit of the appropriate disregards set forth in N.J.A.C. 10:90-3.8 for earned income, if applicable, is less than the maximum benefit payment level for the appropriate eligible AU size in accordance with Schedule IV at N.J.A.C. 10:90-3.5(b). Effective July 1, 2019, the benefit level for an employable WFNJ/GA AU, consisting of one person, is \$185 per month. See N.J.A.C. 10:90-3.5(b); see also DFD Informational Transmittal ("IT") No. 19-21.

Only WFNJ cash assistance recipients and SSI benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).



Here, the record reflects that Petitioner was receiving WFNJ/GA and EA benefits, when he had part-time employment beginning in March 2021, through May 17, 2021. See Initial Decision at 2; see also Exhibit P-1. As required by regulatory authority, Petitioner advised the Agency of his part-time employment. See Initial Decision at 2; see N.J.A.C. 10:90-3.8(b)(1). The Agency closed Petitioner's WFNJ/GA case effective April 30, 2021. See Initial Decision at 2; see also Exhibit R-1 at 2. The record in this matter further indicates that, during the fair hearing in this case, the Agency admitted to failing to apply the appropriate income disregards, in accordance with N.J.A.C. 10:90-3.8(b). See Initial Decision at 3. With this acknowledgment, the ALJ stated that Petitioner's income in May, 2021, should have been disregarded, and the income in June, 2021, reviewed for continued eligibility. See Initial Decision at 3; see N.J.A.C. 10:90-3.8(b). As such, Petitioner's EA benefits would not have terminated prior to at least June 13, 2021. See Initial Decision at 3. Accordingly, the ALJ reversed the Agency's termination of Petitioner's EA benefits, and directed the Agency to continue Petitioner's EA placement for June 2021, and provide him with any inappropriately withheld WFNJ/GA benefits. *Ibid.* I agree.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

By way of further comment, Petitioner is without prejudice to reapply for WFNJ/GA and EA benefits.

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

Officially approved final version.

JUL 15 2021

Natasha Johnson

Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

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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 04783-21 G.C.

AGENCY DKT. NO. C066790018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits contending that Petitioner's countable household income exceeded the maximum permissible level for receipt of said benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 22, 2021, the Honorable Sarah G. Crowley, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. On June 28, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, the ALJ's Initial Decision is hereby MODIFIED and the Agency determination is AFFIRMED, based on the discussion below.

Regulatory authority applicable to SNAP benefit cases, defines income as "all income from whatever source unless such income is specifically excluded." See N.J.A.C. 10:87-5.3.

In order to determine an applicant's eligibility for SNAP, the applicant's income and resources must be below a certain threshold. In accordance with N.J.A.C. 10:87-6.16(d)(1), households which contain an elderly or permanently disabled individual, as defined by N.J.A.C. 10:87-2.34, must meet the net income test for SNAP eligibility. N.J.A.C. 10:87-6.16(d)(2), states that households that do not contain an elderly or permanently disabled household member must meet both the gross income test, as well as the net income test, meaning that the respective income amounts must be below the established standards. See also N.J.A.C. 10:87-12.3, -12.4.

Gross income is determined by adding together the household's monthly earned and unearned income, minus any earned income exclusions. See N.J.A.C. 10:87-6.16(b), (b)(1). That total gross income



amount is then utilized to determine a household's SNAP eligibility in accordance with N.J.A.C. 10:87-6.16(b) and (d)(2).

Here, the record reflects that Petitioner's SNAP household is comprised solely of Petitioner. See Initial Decision at 2. The record further shows that Petitioner receives Retirement, Survivors and Disability Insurance ("RSDI") benefits in the monthly amount of \$1,385, however, there is no indication in the record that Petitioner himself is permanently disabled or elderly, and as such, must meet the both the gross and net income tests for SNAP eligibility. See Exhibit R-1; see also N.J.A.C. 10:87-2.34(a)(1), (2), and N.J.A.C. 10:87-6.16(d)(1), (2). Additionally, the record indicates that Petitioner has earned income, in the amount of \$855. See Exhibit R-1. Adding Petitioner's unearned income, to Petitioner's earned income results in a total gross income amount of \$2,240. Ibid. The maximum allowable gross income amount for SNAP eligibility, for a household of one person, is \$1,968, and as Petitioner's gross income is over the threshold, Petitioner is ineligible for SNAP benefits. See Initial Decision at 3; see also DFD Instruction ("DFDI") 20-09-04 at 13.

Based on the foregoing, I agree with the ALJ's final conclusion that the Agency's termination of Petitioner's SNAP benefits, for excess income over the maximum permissible level, was proper and must stand. See Initial Decision at 4. However, the Initial Decision incorrectly states that Petitioner's income was over the net income allowable, but in this instance, as stated above, as there is no evidence in the record to substantiate an elderly or permanently disabled individual in the household, Petitioner had to meet both the gross and the net income tests for SNAP eligibility. See Initial Decision at 4; see also N.J.A.C. 10:87-6.16(d)(2). As the analysis above reflects, Petitioner did not meet the gross income test, and on that basis, the Agency properly terminated Petitioner's SNAP benefits. Additionally, it should be noted that, if the gross income test is not met in cases such as this, calculation of the household's net income, and application of household expenses in the eligibility calculation, is unnecessary. See Initial Decision at 3. The Initial Decision is modified to reflect these findings.

By way of comment, if Petitioner has evidence of permanent disability, or is 60 years of age or older, Petitioner may reapply for SNAP benefits, and would then only need to meet the net income test. See N.J.A.C. 10:87-2.34(a)(1), (2) and N.J.A.C. 10:87-6.16(d)(1). If such evidence was previously provided to the Agency, then the Agency is directed to reevaluate Petitioner's SNAP eligibility in accordance with N.J.A.C. 10:87-2.34(a)(1), (2) and N.J.A.C. 10:87-6.16(d)(1), and if determined eligible for SNAP benefits, provide retroactive benefits accordingly. See N.J.A.C. 10:87-8.18.

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

Officially approved final version.

JUL 15 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
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SARAH ADELMAN
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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 05432-21 H.R.

AGENCY DKT. NO. C061662018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits, contending that he refused appropriate permanent housing offered. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 6, 2021, the Honorable Elaine B. Frick, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On July 7, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination, with contingencies. Here, the ALJ found that Petitioner had refused two permanent housing placements offered by the Agency, and had failed to complete the application for a third permanent housing placement offered by the Agency, without good cause. See Initial Decision at 6-9; see also Exhibits R-2, R-3, R-4, R-5, R-7. Nevertheless, based on Petitioner's particular circumstances, namely his testimony wherein he claimed to have completed the required application, and his professed willingness to cooperate with the application process, the ALJ concluded that if Petitioner provides the Agency with the completed and signed housing assistance application by July 9, 2021, then the Agency's termination of Petitioner's EA benefits shall be reversed. See Initial Decision at 4-9; see also Exhibit R-1. However, the ALJ further concluded that should Petitioner fail to provide said completed and signed application to the Agency by July 9, 2021, then the Agency's termination of Petitioner's EA benefits shall be affirmed and must stand. See Initial Decision at 9-10; see also Exhibits R-1, R-6, and N.J.A.C. 10:90-6.1(c)(3). 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, should the Agency's termination stand, I find that Petitioner is also ineligible for EA benefits for a period of six-months, beginning May 2, 2021, the effective date of the Agency's termination, through November 1, 2021. See Exhibit R-1; see also N.J.A.C. 10:90-6.1(c)(3).



Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED WITH CONTINGENCIES, as discussed above.

Officially approved final version.

Natasha Johnson : JUL 22 2021
Assistant Commissioner





State of New Jersey

PHILIP D. MURPHY
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TRENTON, NJ 08625-0716

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 05600-21 Q.B.

AGENCY DKT. NO. C255048020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner violated shelter rules, and caused his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 9, 2021, the Honorable Matthew G. Miller, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On July 12, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that he violated shelter rules and caused his own homelessness. See Initial Decision at 2; see also Exhibit R-1 at 3-7, and N.J.A.C. 10:90-6.1(c)(3). Petitioner denied having any knowledge that he had violated shelter rules. See Initial Decision at 3. The ALJ found that the Agency had failed to provide any documentary evidence of any such shelter rule violation by Petitioner, and had failed to provide testimony of anyone with first-hand knowledge of any such violation. *Id.* at 3-5, 8-9; see also Exhibit R-1 at 1-2, and N.J.A.C. 1:1-15.5(a), (b). Moreover, the record reflects that the Agency had failed to consider Petitioner's mental and physical health barriers prior to its termination of his EA benefits. See Initial Decision at 4; see also N.J.A.C. 10:90-6.3(g). Based on the foregoing, the ALJ concluded that the Agency had failed to demonstrate that Petitioner had violated shelter rules, thereby causing his own homelessness, and as such, further concluded that the Agency's termination of Petitioner's EA benefits, and imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 5-10; see also Exhibit R-1 at 3-7, and N.J.A.C. 10:90-6.1(c)(3) -6.3(c)-(f). 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.

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



Officially approved final version:

JUL 22 2021

Natasha Johnson
Assistant Commissioner





State of New Jersey

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SARAH ADELMAN
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SHEILA Y. OLIVER
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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 05597-21 L.T.

AGENCY DKT. NO. C116593008 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that she violated motel/shelter rules, failed to comply with her EA service plan ("SP") by violating motel/shelter rules, and caused her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 12, 2021, the Honorable Tama B. Hughes, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On July 13, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, 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 MODIFY the Agency's determination, as discussed below.

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient's actions, without good cause, which may include, but are not limited to, "threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents." See N.J.A.C. 10:90-6.3(c)(3).

Also, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility's policies, such as visitation or curfew. See N.J.A.C. 10:90-6.3(e). An adult EA benefits recipient who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, the record indicates that Petitioner had executed an EA service plan ("SP"), wherein she agreed to comply with motel/shelter rules. See Initial Decision at 3-4., 5-6; see also Exhibit R-1 at 4-9, 19-21. The ALJ found, and the record substantiates, that Petitioner had violated the rules of her shelter placement by assaulting another shelter resident, and verbally abusing shelter staff members, resulting in police



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involvement, a temporary, and then final, restraining order being placed against her, thereafter resulting in her termination from her shelter placement. See Initial Decision at 2-3, 6-7; see also Exhibit R-1 at 16-18, 22-35, 36-41. The ALJ also found that Agency testimony, as well as witness testimony, presented at a prior abandoned fair hearing on the same issue, proffered credible testimony and evidence proving that Petitioner had violated shelter rules. See Initial Decision at 2-4, 6; see also Exhibit R-2, and N.J.A.C. 1:1-15.5. Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of her SP, without good cause, by violating shelter rules, thereby causing her own homelessness, and on that basis, affirmed the Agency's termination of Petitioner's EA benefits and imposition of a six-month EA ineligibility penalty. See Initial Decision at 6-7; see also Exhibit R-1 at 1-3, 61-63, and N.J.A.C. 10:90-6.1(c)(3)(vi), -6.6(a). While I agree with the ALJ's ultimate conclusion, in instances such as this, where violations of motel/shelter rules are at issue, it is the type of violation which is controlling. See Initial Decision at 5-7; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). In this instance, the record indicates that Petitioner's threatening and disruptive behaviors resulted in her termination from her shelter placement, in violation of N.J.A.C. 10:90-6.3(c)(3), and on that basis, I find that Petitioner is ineligible for EA benefits for a period of six months in accordance with N.J.A.C. 10:90-6.3(c). See Initial Decision at 4-6; see also Exhibit R-1 at 3-9, 16-18, 22-35, 36-41, and 61-63. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 2-3, 6-7; see also Exhibit R-1 at 1-3. The Initial Decision and the Agency's adverse action notice are both modified to reflect this finding with respect to the applicable legal basis in this case.

By way of comment, Petitioner's six-month EA ineligibility penalty shall run from April 12, 2021, the effective date of the Agency's termination of EA benefits, through October 11, 2021. See Exhibit R-1 at 1-3.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

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

Officially approved final version.

Natasha Johnson
Assistant Commissioner

JUL 27 2021

