



State of New Jersey

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Governor

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

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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 09248-21 S.G.

AGENCY DKT. NO. C117740008 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") recoupment, due to an overissuance. The Agency asserts that Petitioner received SNAP benefits to which she was not entitled, as the result of a failure to report a change in household income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 1, 2021, the Honorable Jeffrey R. Wilson, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents into evidence. On December 8, 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.

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).

Recurring court-ordered arrearages on child support and alimony payments made directly to the household are considered unearned income. See N.J.A.C. 10:87-5.5(a)(5).

Here, the record reflects that on September 30, 2020, Petitioner applied for SNAP benefits, indicating that her sources of household income included monthly Veterans Administration ("VA") benefits in the amount of \$2,121, and income from child support payments. See Initial Decision at 2; see also Exhibit R-1 at 34-37, 54, 72. On October 5, 2020, the Agency requested that Petitioner provide, among other items, verification of the child support payments she had received. See Initial Decision at 2; see also



Exhibit R-1 at 64. On October 13, 2020, Petitioner advised the Agency that between October 16, 2018, and October 5, 2020, she had received 19 child support payments, for a total of \$5,695.40. See Initial Decision at 2-3; see also Exhibit R-1 at 67. After reviewing Petitioner's October 13, 2020, submission, the Agency determined that since the child support payments were not consistent in frequency and amount, Petitioner was eligible for SNAP benefits, without including the sporadic child support income Petitioner had received beginning October 16, 2018, through October 5, 2020. See Initial Decision at 3; see also Exhibit R-1 at 67, and N.J.A.C. 10:87-6.9(b). On December 2, 2020, the Agency mailed Petitioner an Interim Reporting Form ("IRF"), and advised Petitioner that the IRF must be returned no later than January 15, 2021, or her case will close effective March 1, 2021. See Initial Decision at 3; see also Exhibit R-2 at 2-5. Petitioner never returned the IRF. See Initial Decision at 3.

On or around October 8, 2020, the Agency discovered that beginning November, 2020, Petitioner began receiving child support payments, consistent in frequency and amount, and did not report the payments to the Agency. *Ibid.*; see also Exhibit R-1 at 11-15, and N.J.A.C. 10:87-5.5(a)(5). Based on that additional income, the Agency recalculated Petitioner's eligibility for SNAP benefits, and determined that Petitioner had received \$4,760 in excess SNAP benefits, for the period beginning January, 2021, through July, 2021. See Initial Decision at 3; see also Exhibit R-1 at 7-9. Based on the evidence presented, the ALJ concluded that Petitioner's total household income included the child support payments that were made on a recurring basis, and after inclusion of same, it was clear that, due to an IHE, Petitioner had received an overissuance of SNAP benefits in the amount of \$4,760, to which she was not entitled. See Initial Decision at 4, 6; see also N.J.A.C. 10:87-5.5(a)(5), -11.20, and Exhibits R-1 at 3-9. I agree.

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

By way of comment, Petitioner contends that she should not be responsible for repaying the overissuance, as she committed "no error." See Initial Decision at 4. Petitioner further asserts that she had complied to the best of her ability, and that the overissuance should be attributed to an Agency Error ("AE"), as opposed to an IHE. *Ibid.*; see also N.J.A.C. 10:87-11.20(e)(3). However, the ALJ correctly found that the Agency is required to collect on all claims for overpayments. *Id.* at 6. I agree, and note that overissuances must be repaid, regardless of fault, as any overissuance of SNAP benefits cannot result in a windfall to Petitioner. See N.J.A.C. 10:87-11.20.

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

Officially approved final version.

DEC 22 2021

Natasha Johnson
Assistant Commissioner

