



## State of New Jersey

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

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **00843-24 A.E.**

AGENCY DKT. NO. **C075946001 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)**

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner SNAP benefits at recertification, asserting that Petitioner's 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 ("OAL") for a hearing. On April 4, 2024, the Honorable Robert D. Herman, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. A second day of hearing, conducted in-person, occurred on April 9, 2024, with the services of an Arabic interpreter being utilized. A first post-hearing conference was held with the parties on April 18, 2024. Following Petitioner's April 22, 2024, written submission, a second post-hearing conference was scheduled for May 31, 2024. Following the second post-hearing conference on May 31, 2024, the record then closed. On June 14, 2024, the ALJ issued an Initial Decision, affirming the Agency's determination on other grounds. Following return of the case to the transmitting Agency, on July 10, 2024, the ALJ issued an Amended Initial Decision.

Exceptions to the Initial Decision were received from counsel for Petitioner on June 21, 2024. Exceptions to the Amended Initial Decision were received from Petitioner's counsel on July 18, 2024.

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, the Agency determination is REVERSED, and the matter REMANDED to the Agency for further action, based on the discussion below.

Regulatory authority applicable to SNAP benefits cases, defines income as "all income from whatever source unless such income is specifically excluded." See N.J.A.C. 10:87-5.3. "Earned income" is defined, in pertinent part, as "[a]ll wages and salaries received as compensation for services performed as an employee[.]" See N.J.A.C. 10:87-5.4(a)(1).

In accordance with N.J.A.C. 10:87-4.3(a)(1), a household's liquid resources includes monies in a checking and/or savings account. Further, N.J.A.C. 10:87-4.11(a) states that the resources of a household which includes a member or members age 60 or over, shall not exceed \$3,000.

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.

N.J.A.C. 10:87-6.16(b) further outlines the procedures used to calculate both gross and net income for SNAP benefits purposes, and the applicable benefit levels, if eligible. The regulation provides that the applicant's monthly net income is determined by adding together all earned and unearned income, then subtracting all income exclusions. Then, the standard deduction, based upon the size of the household, is subtracted from the income.

Thereafter, the household is evaluated to determine if a medical deduction is appropriate, which is if the household has medical expenses that exceed \$35.00. If the household is entitled to a medical deduction, then the amount in excess of \$35.00 is subtracted from the applicant's income. Then, the applicant is evaluated for an excess shelter deduction. Such a deduction is permitted when the individual's shelter costs exceed 50% of their net income. If this deduction is allowable, then the difference between the shelter costs and the 50% net income, or up to the maximum allowable amount, is subtracted from the individual's income. The remaining figure is Petitioner's net income for SNAP benefits purposes. This net income is then compared against the maximum allowable net income amount for the household's size, as outlined at N.J.A.C. 10:87-12.3, to determine eligibility. If eligible, the household's monthly SNAP allotment shall be equal to the maximum food stamp allotment for the household's size, reduced by 30 percent of the household's net monthly income. See N.J.A.C. 10:87-12.6(a)(1).

At the outset, a determination must be made of whether or not to accept the ALJ's Amended Initial Decision. In accordance with N.J.A.C. 1:1-18.1(h), the OAL relinquishes jurisdiction over a case when the Initial Decision is filed with the transmitting Agency, in this case, DFD. Accordingly, as jurisdiction had been relinquished with the filing of the original Initial Decision on June 14, 2024, neither the Amended Initial Decision, nor the Exceptions filed in response thereto, shall be considered in the rendering of this Final Agency Decision.

With respect to the adverse action that is being appealed in this matter, a denial of continued SNAP benefits at recertification, an independent review of the record reflects that Petitioner, and his wife, submitted the recertification application on November 3, 2023. See Exhibit R-1 at 40-48. While the submitted application does not reflect that Petitioner is self-employed, see Exhibit R-1 at 42, it is undisputed that Petitioner is, indeed, self-employed. See Initial Decision at 2-3; see also Exhibit R-2. In addition to income from self-employment, the record also reflects that Petitioner receives unearned income in the form of Retirement, Survivors and Disability Insurance benefits, which at the time of the recertification application was in the monthly amount of \$680. See Exhibit R-1 at 27. Additionally, as a result of Petitioner's age, he is considered elderly for SNAP benefits purposes, and therefore the household needs to meet only the net income test for SNAP benefits eligibility. See N.J.A.C. 10:87-2.34(a)(1) (defining "elderly" as an individual who is 60 years of age or older); see also N.J.A.C. 10:87-6.16(d)(1).

Based on an independent review of the record, it is clear that the Agency in this case did not follow the procedure outline in DFD Instruction ("DFDI") 13-12-01, failing to apply the standard self-employment deduction of 51%. See Exhibit R-1 at 2, 5. It also appears that, had that procedure been followed to determine the household's monthly gross income from self-employment, using either the 2022 tax information provided in this case, see Exhibit R-2, or the average monthly income amount as provided in a quarterly statement from Petitioner's accountant, see Exhibit R-1 at 49, and following the calculations as outlined above, Petitioner would have been eligible for continued SNAP benefits. See N.J.A.C. 10:87-6.16. However, based on the record presented in this case, it does not appear that all of Petitioner's applicable resources, and/or income, were evaluated by the Agency to determine if those resources combined exceed the maximum permissible resource limit of \$3,000, which would thus preclude SNAP benefits eligibility, or if additional income was reflected, which would require verification. See Exhibits P-5, P-6; see also N.J.A.C. 10:87-4.11(a).

Based on the foregoing, I am remanding this matter to the Agency for further action as follows. The Agency shall request copies of all applicable bank statements, both personal and business related, associated with the household. Petitioner shall provide those bank statements within 15 days of the Agency's request for same. Upon receipt of this financial information, the Agency shall reevaluate Petitioner's eligibility for SNAP benefits, taking into account all applicable resources and reflected income. See N.J.A.C. 10:87-4.3. If, after reevaluation, Petitioner is found to be eligible for SNAP benefits, Petitioner shall be provided with retroactive SNAP benefits to December, 2023. See Exhibit R-1 at 10.

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



Officially approved final version. August 29, 2024

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Natasha Johnson  
Assistant Commissioner

