



## 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

AMENDED DECISION

OAL DKT. NO. HPW **05525-24 A.R.**

AGENCY DKT. NO. **C434448016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)**

On June 20, 2024, a Final Agency Decision ("FAD") was issued in this matter. This Amended FAD is being issued for additional clarification and hereby supersedes the previously issued FAD.

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutritional Assistance Program ("SNAP") benefits, at recertification. The Agency denied Petitioner SNAP benefits at recertification, contending that Petitioner had failed to provide information and documentation necessary to determine continued eligibility. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On May 13, 2024, the Honorable Jude-Anthony Tiscornia, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing and took testimony. The Initial Decision, as well as the case file received from the OAL, reflect that no documents were entered into evidence in this matter. On May 17, 2024, the ALJ issued an Initial Decision, reversing the Agency's termination of SNAP benefits.

No Exceptions to the Initial Decision were filed.

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, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

SNAP is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households. See N.J.A.C. 10:87-1.1(a).

N.J.A.C. 10:87-2.19(b) requires that "[g]ross nonexempt income shall be verified for all households prior to certification." See also N.J.A.C. 10:87-2.20(a).

In accordance with N.J.A.C. 10:87-9.1(a), "No household may participate [in the SNAP program] beyond the expiration of the certification period...without a determination of eligibility for a new period. Households shall apply for recertification and shall comply with interview and verification requirements."

With regards to the reporting of income, N.J.A.C. 10:87-5.2(a)(1) states that, "At the time of certification or recertification, the applicant shall report all income currently being received by all members of the household and any income changes or additions which the household anticipates during the course of the certification period." N.J.A.C. 10:87-5.2(a)(2) states, "The [County welfare agency] shall determine that the total income to the household, as reported by the applicant during



the certification or recertification interview, is completely identified on the NJ SNAP application, and in sufficient detail to permit verification.”

With respect to what constitutes income, and therefore must be reported in order to determine eligibility, N.J.A.C. 10:87-5.3 defines income as “all income from whatever source unless such income is specifically excluded under the provisions of N.J.A.C. 10:87-5.9.”

In accordance with N.J.A.C. 10:87-8.7, even when a fair hearing on a SNAP benefits case is timely requested, continued benefits pending the fair hearing are not granted when a certification period has ended.

Finally, N.J.A.C. 10:87-2.14 provides that, if the household refuses to cooperate with the application process, including providing information that must be verified, such as income, the application shall be denied at the time of refusal.

Initially, I hereby take official notice that the records of this Agency, as well as the filed transmittal in this matter, reflect that the Bureau of Administrative Review and Appeals (“BARA”) transmitted this case to the OAL on August 2, 2023. While Petitioner’s request for a fair hearing was made in April 2023, following the closure of Petitioner’s SNAP benefits case at the end of her certification period, due to a backlog, a four-month delay occurred in transmitting the matter to OAL on August 2, 2023. It is unclear from the record why the case was not stamped as filed by the OAL until April 29, 2024.

Regardless, as indicated above, no documentation was admitted into evidence by the Agency in this matter to support the denial, neither the Request for Verification, or the adverse action notice itself. See Initial Decision at 4. The burden of proof in this case lies with the Agency, to provide evidence to substantiate that the Agency’s adverse action was proper. However, SNAP benefits may not be issued until eligibility for said benefits has been established, and as such, Petitioner can only be granted SNAP benefits upon a determination that Petitioner is, in fact, eligible for same. See N.J.A.C. 10:87-6.20, -9.1(a). Additionally, as outlined above, it is the applicant’s responsibility, both at initial application, as well as at recertification, to provide income information to the Agency, which must be verified, in order for the Agency to determine financial eligibility for SNAP benefits. See N.J.A.C. 10:87-5.2(a).

The ALJ in this case, acknowledging that SNAP is an income derived program (see N.J.A.C. 10:87-1.1(a)), and therefore, that Petitioner must provide further income information, ordered that the denial of SNAP benefits be reversed, provided that Petitioner submits supporting income documentation to the Agency to establish that her income was within the allowable income limits at the time of recertification, and has not increased since the date of the denial. See Initial Decision at 4. I agree with this finding.

The ALJ further opined that, if no documentation to verify income, such as paystubs, were available to Petitioner, that she could provide a written certification stating that her income was below the allowable income level at the time of her recertification and has not increased since the date of the denial. *Ibid.* I disagree with this finding, as in accordance with applicable regulatory authority, it is not for an applicant, at initial application or at recertification, to determine and self-attest if their income is below the allowable income threshold; rather, that responsibility lies with the Agency after the household’s income, and resources, have been verified. See N.J.A.C. 10:87-5.2, -2.19, -6.16. As such, I find that any such written certification is not acceptable. The Initial Decision is modified to reflect this finding.

Based on the foregoing, because mandatory verification of income is required, I am remanding this matter back to the Agency for action as follows. Petitioner shall submit all requested and required income documentation to the Agency within 15 days of the date of this Amended Final Agency Decision. See N.J.A.C. 10:87-2.19(b), -5.2(a). The Agency shall evaluate Petitioner’s recertification application and all submitted documentation for continued eligibility for SNAP benefits. The Agency shall expedite the substantive evaluation of Petitioner’s recertification application and documentation, and if Petitioner is determined to be eligible for SNAP benefits, Petitioner is to then be provided with retroactive SNAP benefits to April 1, 2023. See N.J.A.C. 10:87-8.18.

Should Petitioner fail to provide the required income documentation, necessary to determine financial eligibility for SNAP benefits within the timeframe above, then the prior denial of SNAP benefits, at recertification, effective April 1, 2023, shall stand as issued. See N.J.A.C. 10:87-2.14. The Initial Decision is further modified to reflect these findings.

By way of comment, Petitioner is without prejudice to reapply for SNAP benefits if she has not already done so.

By way of further comment, should Petitioner disagree with this Amended Final Agency Decision, she may contact the Superior Court of New Jersey, Appellate Division, with respect to further appeal proceedings. The telephone number for that office is contained in the cover letter accompanying this decision. Any questions pertaining to such an appeal must be directed to that office.



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

Officially approved final version. August 6, 2024

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Natasha Johnson  
Assistant Commissioner

