



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
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 12857-23 D.C.

AGENCY DKT. NO. **C160354011 (MERCER COUNTY BOARD OF SOC. SVCS..)**

Petitioner challenges the correctness of the Agency's claim for recoupment of an overissuance of Supplemental Nutrition Assistance Program ("SNAP") benefits. Respondent Agency asserts that for the period beginning November 2020, through June 2021, Petitioner received SNAP benefits to which she was not entitled, and which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for January 16, 2024, but was adjourned due to inclement weather and delay of government offices. The matter was rescheduled and on February 27, 2024, the parties appeared, but the Agency asked for a short adjournment to obtain additional documentation, which was consented to by Petitioner. The case was again rescheduled, and on March 26, 2024, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents into evidence. On April 5, 2024, the ALJ issued an Initial Decision, affirming the overissuance of SNAP benefits issued to Petitioner.

No Exceptions to the Initial Decision were filed.

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, I hereby MODIFY the ALJ's Initial Decision, MODIFY the Agency determination, and REMAND the matter to the Agency for further action, based on the discussion below.

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 only 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.

In the instance of an overpayment of SNAP 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). Another type of overpayment which is subject to recoupment is one which results from "an action or failure to take action by the [Agency]," called an "Agency Error" ("AE"). See N.J.A.C. 10:87-11.20(e)(3). Repayment of overissuances may be sought for amounts going back six years prior to the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).



The ALJ in this matter issued a thorough Initial Decision, outlining the procedural history, providing a detailed factual timeline, and rendering a well thought out analysis, applying law to fact. See Initial Decision at 2-8. The ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner received an overissuance of SNAP benefits to which she was not entitled in the amount of \$3,277 between November 2020 and June 2021. See Initial Decision at 7; see also Exhibits R-4, R-5. However, based on the facts and record presented, the ALJ found that the claim was to be reclassified as an AE, and not an IHE. See Initial Decision at 5, 7. I agree, particularly given the fact that Petitioner had called the Agency to advise that she had returned to work. See Initial Decision at 4, para. 10.

The ALJ further opined that the Agency should have pro-rated Petitioner's salary over a 12-month period, rather than the 10-month period used by the Agency, due to Petitioner's employment as a school employee and in accordance with N.J.A.C. 10:87-6.9(e), and had such been done, Petitioner's gross income would be below the gross income threshold for eligibility. See Initial Decision at 3, 5, 8. Several points need to be noted with regards to this assertion. First, income is often not budgeted over the 12-month period in these cases as some such employees apply for, and receive, unemployment benefits during the summer months not actually working, and additionally, budgeting the income over 12 months would also preclude these individuals from eligibility for Work First New Jersey ("WFNJ") benefits, as such budgeted income would deem them over income and therefore ineligible for said benefits. See N.J.A.C. 10:90-3.2(a), -3.3(a). Further, it should be noted that the ALJ overlooks the fact that, as Petitioner is neither elderly or permanently disabled, Petitioner would need to meet both the gross and net income thresholds for eligibility. See N.J.A.C. 10:87-6.16(d)(2).

However, there is nothing in the record to reflect that Petitioner received unemployment benefits during the months in question. Additionally, I take official notice that the records of this Agency also reflect that Petitioner did not receive any WFNJ benefits during the months in question, despite a per capita WFNJ/Temporary Assistance for Needy Families ("WFNJ/TANF") amount being improperly added into the overissuance calculations. See Exhibit R-5, line-item G. Therefore, I am remanding this matter to the Agency for recalculation of the eligibility/overissuance as follows. As there is no evidence that Petitioner received WFNJ/TANF benefits or unemployment benefits during the months in question, the Agency shall budget Petitioner's earned income, over 12-months, or \$2,321 per month. See N.J.A.C. 10:87-6.9(e). The per capita WFNJ/TANF amount of \$213 shall be removed from the calculations, and the calculations shall also allow for an earned income deduction of 20 percent, as is permissible for an AE. See N.J.A.C. 10:87-11.20(f)(1)(ii)(2). If, based on the recalculations, it is determined that Petitioner meets the net income eligibility threshold for Petitioner's household size, proper monthly allotment shall be determined and any adjustments made in the overissuance amount. See DFD Instruction 20-09-04. The Initial Decision is modified to reflect the above findings and directives.

If after recalculation, it is determined that an overissuance still remains, then Petitioner will be required to repay, and the Agency is entitled to recoup, any SNAP benefits to which she was not entitled during the time period claimed. See N.J.A.C. 10:87-11.20(b), (e)(3).

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

Officially approved final version. May 15, 2024

Natasha Johnson
Assistant Commissioner

