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Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **03577-24 L.A.**

AGENCY DKT. NO. **C168482015 (OCEAN COUNTY BOARD OF SOC. SVCS.)**

Petitioner challenges the Respondent Agency's claim for recovery of Supplemental Nutrition Assistance Program ("SNAP") benefits issued to Petitioner between January, 2021 and December, 2022. The Agency asserts that Petitioner failed to properly disclose the members of her household, and their income, during the time she received SNAP benefits, thus causing Petitioner to receive an overissuance of benefits to which she was not entitled. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On April 19, 2024, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence. The record remained open until April 26, 2024, for the submission of additional documents and then closed. The record was reopened, by the ALJ, to request additional documents and statements from both parties and the record then closed on May 6, 2024. On May 17, 2024 the ALJ issued an Initial Decision, reversing the Agency's determination of an overissuance of SNAP benefits.

No Exceptions to the Initial Decision were filed.

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 REVERSE the Agency's determination.

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). 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 that 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 amounts up to 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 record in this matter reflects that Petitioner and the father of her children (S.H.) are not, and have never been, married. See Initial Decision at 2,4. S.H. left the home he previously shared with Petitioner and their children during December 2020. See Initial Decision at 4. Thereafter, Petitioner applied for SNAP benefits on January 21, 2021, on behalf of herself and her six children. See Initial Decision at 2, see also Exhibit R-5. The reported household composition from the initial SNAP application remained the same on subsequent recertification applications and interim reporting forms. See Exhibit R-5 at 2-4. From the time S.H. left the home, Petitioner was solely responsible for the mortgage payments and food purchases for the home. See Initial Decision at 5. Petitioner contends that S.H. was not provided food when he



was at the home, nor did he provide any financial assistance towards food or food for the children, beyond snacks, when he visited the home. Ibid.

Petitioner affirms that S.H. was responsible for, and paid, the electric, gas, and solar bills for the household directly to the utility companies. See Initial Decision at 2; see also Exhibit R-5. Beyond this financial support, paid directly to the utility companies, Petitioner contends that she was solely responsible for the mortgage on the home, that she and S.H. maintain separate bank accounts at separate banks, and that they do not jointly file taxes. See Initial Decision at 3-4.

Petitioner spoke with an Agency investigator, and in October 2022 stated she was separated from S.H. and that he was not regularly in the household but typically there one weekday morning to assist with getting the children off to school. Id. at 3. According to Petitioner, S.H. would only come to the home with Petitioner's permission. Ibid. S.H. testified to visiting his children, sometimes several times per week for between 1-2 hours and that he always arrived after Petitioner left for work or before she returned home from work. Id. at 5. Further, S.H. testified that he never stayed overnight at the home from January 2021 through December 2022. Id. at 6.

Here, the testimony and record reflect that during March 2022, Petitioner and S.H. discussed selling the home, which required repairs and necessitated obtaining a mortgage loan to pay for such repairs. Id. at 5. Renovations were contracted for during April 2022, the loan was obtained April 2022, and the renovations were completed in June 2022; but as the housing market and interest rates had become unfavorable, Petitioner stayed in the home. Ibid. S.H. has been solely responsible for all of the loan payments and provided proof of monthly payments of same. Id. at 6; see also Exhibit R-4.

The Agency in this case takes the position that S.H. was a member of the household and his income should have been considered when SNAP eligibility was calculated. See Initial Decision at 2, see also Exhibit R-3. In the scenario where S.H.'s income was included, the household would not have been eligible for SNAP benefits from January 2021 through December 2022, and would have incurred an overissuance of benefits in the total amount of \$28,188.00. See Initial Decision at 2; see also Exhibits R-1, R-2. The Agency contends that S.H. was a member of the household based upon his using the household address on forms submitted for taxes, employment, insurance, vehicle registrations, and banking purposes, and that the loan from April 2022 lists both Petitioner and S.H. where the loan was secured by the home at the household address. See Initial Decision at 3; see also Exhibit R-4. As S.H. never had another permanent address, he testified that he did not change his address on any official documents. See Initial Decision at 7. At the time of the Agency investigation, Petitioner did not know where S.H. was residing as she communicated with him solely via telephone, but knew he had social contacts in the area where he may be staying. Id. at 5.

The ALJ in this matter found Petitioner and S.H., as well as their adult daughter, to be credible witnesses in presenting consistent information regarding the composition of the household, the relationship between Petitioner and S.H., and the division of financial and care responsibilities for the household. Id. at 7, 8. The ALJ concluded that S.H. moved from the home prior to Petitioner applying for SNAP benefits, that he did not live at the home during the months at issue, and did not pay the mortgage. Further, the ALJ found no evidence that S.H. provided or prepared food for the household on any regular basis or that he, Petitioner, and their children purchased or prepared food for communal consumption at the home. Id. at 8. Lastly, the ALJ concluded that the children always remained at the home and at no time resided with S.H. Id. at 13.

Based on the foregoing, the ALJ found that the Agency did not meet 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. Id. at 3, 4. Specifically, the ALJ found that Petitioner accurately excluded S.H. as a member of the household when applying for SNAP benefits. Id. at 13. Petitioner contended that she did not reside with S.H., and the ALJ considered the evidence presented and concluded that Petitioner, and their children, do not reside at the same residence as S.H. Ibid. Accordingly, based on the evidence presented, the ALJ concluded that no overissuance had occurred in this case, as Petitioner's household received SNAP benefits to which it was properly entitled and as such, reversed the Agency's determination. Ibid. I agree.

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

Officially approved final version. June 27, 2024

Natasha Johnson
Assistant Commissioner

