



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

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

AMENDED DECISION

OAL DKT. NO. HPW **01386-24 P.P.**

AGENCY DKT. NO. **C082593014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)**

A Final Agency Decision ("FAD") was issued in this matter on July 18, 2024. This Amended FAD is being issued to recognize receipt of Exceptions filed by Petitioner, and received by this office on July 30, 2024.

Petitioner challenges the correctness of the Respondent Agency's claim for recovery of Work First New Jersey/General Assistance ("WFNJ/GA") benefits issued to Petitioner between June, 2021 and May, 2022, and Supplemental Nutrition Assistance Program ("SNAP") benefits issued to Petitioner between May, 2021 and October, 2022. The Agency asserts that Petitioner received WFNJ/GA and SNAP benefits to which she was not entitled, thereby resulting in an overissuance of benefits which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing.

A hearing was initially scheduled for April 9, 2024, but was adjourned at Petitioner's request. The matter was rescheduled for April 23, 2024, but was adjourned at Petitioner's request. The matter was rescheduled for April 30, 2024, when a conference was held, but the hearing was again adjourned at Petitioner's request and then rescheduled for June 3, 2024. Petitioner requested a further adjournment and the hearing was held on June 19, 2024 before the Honorable Susana E. Guerrero, Administrative Law Judge ("ALJ"), who held a plenary hearing, took testimony, and admitted documents. Following the hearing, the record was held open to provide the opportunity for further submissions by Petitioner and ultimately the record was closed on June 24, 2024. On July 3, 2024, the ALJ issued an Initial Decision, affirming the Agency's claim, and ordering that same be repaid.

Exceptions to the Initial Decision were received from Petitioner on July 30, 2024.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby ADOPT the Initial Decision, and AFFIRM the Agency determination, 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). 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).



Here, the Petitioner applied for WFNJ/GA and SNAP benefits, for a household of two persons, during May 2021 and declared she had no income or resources. See Initial Decision at 2. Petitioner received WFNJ/GA benefits monthly from June, 2021 through May, 2022, in the total amount of \$2,759 and SNAP benefits monthly from May, 2021 through October, 2022, in the total amount of \$9,136. See Initial Decision at 2-3. During Petitioner's redetermination for benefits, information was discovered that Petitioner may be in receipt of unreported income and, during the course of the Agency's investigation, it was discovered that Petitioner was in the midst of divorce proceedings when she applied for WFNJ/GA and SNAP and that she may have been receiving spousal support and have financial resources that would have rendered her ineligible for WFNJ/GA and SNAP benefits. See Initial Decision at 3.

At the hearing, the Agency produced Petitioner's Amended Judgment of Divorce, from August 2023, which ordered her ex-husband to pay spousal support, including retroactive support inclusive of the time period for which Petitioner was receiving WFNJ/GA and SNAP benefits. See Initial Decision at 3, see also Exhibit R-1. While the Amended Judgment of Divorce orders the payment of support, the ALJ concluded no evidence was proffered to show actual receipt by Petitioner of such support and that the Agency failed to meet their burden to establish, by a preponderance of the evidence, that Petitioner received monthly spousal support during the time period when she was in receipt of WFNJ/GA and SNAP benefits. See Initial Decision at 3-4.

Petitioner did concede, during her hearing testimony, that she received at least \$800 per month in spousal support beginning in January 2022, but that she did not recall receiving support during the time period of May, 2021 through December, 2021. See Initial Decision at 4. While the ALJ noted that Petitioner was not a credible witness, the ALJ found that, at least as of January 2022, Petitioner failed to report spousal support received and that the record did not substantiate receipt of spousal support prior to January 2022. Ibid. Based on the evidence presented, the ALJ concluded that Petitioner's household had received an overissuance of WFNJ/GA benefits, as the household was ineligible, from January, 2022, through May, 2022, due to the amount of spousal support received. Ibid.

In addition to the ineligibility assertions, the Agency further contended an overissuance of WFNJ/GA and SNAP benefits as the Amended Judgment of Divorce evidenced resources well in excess of the maximum resource amount to qualify for WFNJ/GA and SNAP benefits. See Initial Decision at 4, see also Exhibit R-1. The Amended Judgment of Divorce specifically states that during the time Petitioner was receiving WFNJ/GA and SNAP benefits she "fraudulently submitted applications for and received benefits from the Morris County Office of Temporary Assistance for food and other necessities." See Initial Decision at 5; see also Exhibit R-1. While Petitioner claimed that she was unable to access her liquid assets, the ALJ noted that no evidence was produced to support such assertion. See Initial Decision at 5-6. Eligibility for WFNJ/GA and SNAP is determined by examining an applicant's income (both earned and unearned) and resources (both countable and exempt), and an applicant must report all income received by every household member and the applicant maintains the duty to report any changes in circumstances. See N.J.A.C. 10:87-4.2, -5.2, -9.5, and N.J.A.C. 10:90-1.13, -3.1, -3.3, -3.4, -3.9, -3.10, -3.19, -3.20. Here, Petitioner failed to disclose resources, which were not exempt, and which were available to her at the time of her benefit applications that were well in excess of the resource limit for WFNJ/GA and SNAP benefits. See Initial Decision at 7.

Thus, the ALJ found that, during the time Petitioner applied for, and received, WFNJ/GA and SNAP benefits, that she had resources available to her well in excess of the allowable resource limits for both WFNJ/GA and SNAP. See Initial Decision at 6, see also Exhibits P-1 and R-1. Further, the ALJ found that Petitioner received benefits to which she was not entitled, which must be repaid, and affirmed the Agency's demand for repayment. See Initial Decision at 7-8, see also N.J.A.C. 10:87-11.20 and N.J.A.C.10:90-3.21. I agree.

By way of comment, I have reviewed Petitioner's Exceptions, and I find that the arguments therein do not alter my decision in this matter.

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

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

Officially approved final version.

August 08, 2024

Natasha Johnson

Assistant Commissioner

