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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **05727-22 U.M.**

AGENCY DKT. NO. **C266645009 (HUDSON COUNTY DEPT OF FAM SVCS)**

Petitioner challenges the correctness of a Supplemental Nutrition Assistance Program ("SNAP") benefits recoupment, due to an overissuance. Respondent Agency asserts that for the period beginning October, 2020, through November, 2021, Petitioner received SNAP benefits to which he was not entitled, and which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 18, 2022, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ,") held a telephonic plenary hearing, took testimony, admitted documents into evidence, and the record then closed. On September 9, 2024, the ALJ issued an Initial Decision, finding that the Agency's determination to recoup the overissuance of SNAP benefits, should be reversed, that Petitioner should not be disqualified from receiving SNAP benefits, and that it would constitute a financial hardship for Petitioner to repay an overissuance that had been outstanding for more than three years.

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 and AFFIRM the Agency's determination, based on the discussion below.

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).

In this Initial Decision, the ALJ cites to caselaw and refers to regulatory authority, specifically, N.J.S.A. 30:4D-1 et. seq., related to Medicaid benefits, and makes reference to the Commissioner's powers arising under the New Jersey Medical Assistance and Health Services Act. See Initial Decision at 5-7. However, as the instant matter involves only SNAP benefits, N.J.A.C. 10:87-1.1 et. seq. is the relevant, controlling authority, and therefore, my findings and conclusions are based on that regulatory authority.

The record indicates that on April 26, 2022, the Agency sent Petitioner a Notice to Repay Overissued SNAP Benefits, advising him that due to an IHE, as a result of unreported income, for the period beginning October, 2020, through November, 2021, Petitioner received an overissuance of \$8,268 in SNAP benefits which must be repaid. See Initial Decision at 4; see also Exhibit R-1 at 12, 13, 21, 25-26. Petitioner testified that he had filed for bankruptcy protection, but did not include this overpayment debt in his petition. See Initial Decision at 3. Petitioner further testified that he knew he



was required to report the additional income, but did not do so, because he was unable to contact anyone at the Agency, despite his attempts to do so. Id. at 2-3. Petitioner also testified that it would be a hardship to pay back the overissuance, because it was an “honest error.” Id. at 3.

The ALJ found that since there was no evidence of fraud on Petitioner’s part, and that since this was not an Intentional Program Violation (“IPV”), the overissuance could have been discharged in bankruptcy, even if Petitioner did not amend his bankruptcy petition. Ibid. The ALJ then concluded that the Agency’s determination that Petitioner repay the \$8,268, in overissued SNAP benefits should be reversed, and that Petitioner should not have to repay that amount. Id. at 4, 8. The ALJ concluded further that, should Petitioner wish to apply for, and then receive SNAP benefits, no disqualification penalty should be assessed against him. Id. at 8.

Based upon my independent review of the record, I agree with ALJ, that, because there are no allegations of false or misleading statements, misrepresentations, or concealed facts in this matter, this is not an IPV, and therefore, no disqualification penalty from the receipt of SNAP benefits, should be imposed against Petitioner. See N.J.A.C. 10:87-11.2, -11.3(a)(1). However, I respectfully disagree with the ALJ’s conclusion that Petitioner should not have to repay the overissuance, given the age of the case. See Initial Decision at 8. I find that pursuant to regulatory authority, Respondent must repay to the Agency, the amount of overissued SNAP benefits that he received, and was not entitled to. See N.J.A.C. 10:87-11.20. Moreover, I find that an IHE cannot result in a windfall to Petitioner, as receipt of an overissuance of SNAP benefits is money that Petitioner received, to which he was not entitled, and therefore, must be repaid. See Initial Decision at 4; see also Exhibit R-1 at 25-26, and N.J.A.C. 10:87-11.20(a), (b). The Initial Decision is modified to reflect these findings.

I take official notice that the records of this office indicate that Petitioner has been paying on the overissuance in this matter. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). As such, I ORDER and direct that the Agency continue to recoup the overissuance. Petitioner is directed to continue to make the monthly payments in accordance with his Repayment Agreement.

By way of comment, in accordance with applicable regulatory authority, in cases involving SNAP benefits, a fair hearing, Initial Decision, and Final Decision are all to be completed within 60 days from the receipt of an individual’s request for a fair hearing. See 7 C.F.R. § 273.15(c)(1). With this time frame in mind, it should also be noted that Initial Decisions in SNAP cases are to be issued within 14 days from the date of the hearing before the ALJ. See N.J.A.C. 1:10-18.1(b).

By way of further comment, while the ALJ opined as to Petitioner’s bankruptcy proceeding, as the record shows that that proceeding was completed, and as Petitioner did not exercise his right to reopen that proceeding, any discussion on that issue is speculative and not relevant.

Also by way of comment, while Petitioner argued during the hearing that repaying the overissuance would constitute a hardship, I find that argument to be of no consequence in light of the fact that Petitioner has been repaying the overissuance.

Accordingly, the Initial Decision in this matter is MODIFIED, and the Agency’s determination is AFFIRMED, as outlined above.

Officially approved final version. December 10, 2024

Natasha Johnson
Assistant Commissioner

