



## State of New Jersey

**CHRIS CHRISTIE**  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

TRENTON, NJ 08625-0716

**ELIZABETH CONNOLLY**  
*Acting Commissioner*

**KIM GUADAGNO**  
*Lt. Governor*

**NATASHA JOHNSON**  
*Director*  
Tel: (609) 588-2000

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

#### REMAND DECISION

OAL DKT. NO. HPW 00898-18 A.F.

AGENCY DKT. NO. C033973017 (SALEM COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of his Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits because it alleged that his countable income exceeded the maximum permissible income level for receipt of benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 5, 2018, the Honorable Kathleen M. Calemno, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open to allow Petitioner to submit additional documentation, then closed on February 14, 2018. On February 28, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I ADOPT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency for further action as discussed below.

Here, the record shows that the Agency had been alerted that Petitioner had received unearned income, in the form of Unemployment Insurance Benefits ("UIB"), as well as recent earned income. See Initial Decision at 3; see also Exhibit R-1 at 6. Petitioner had recently submitted an Interim Reporting Form ("IRF"), wherein he maintained that his unearned, as well as his earned, income had not changed by more \$100. See Exhibit P-2. On December 15, 2017, the Agency sent Petitioner a Request for Contact, so that the information pertaining to the UIB and earned income could be clarified. See Exhibit R-1 at 4. The Agency gave a deadline of December 25, 2017, by which Petitioner was to contact the Agency. Ibid. Petitioner provided evidence that he had received the Request for Contact on December 22, 2017, a Friday, and contacted the Agency on December 26, 2017, following the Christmas holiday. See Initial Decision at 3-4. Petitioner further stated that he was told someone from the Agency would call him back, however, no one had. See id. at 4. The Agency then sent Petitioner an adverse action notice on December 28, 2017, advising that Petitioner's SNAP benefits would terminate on February 1, 2018. See Exhibit R-1 at 1.

The ALJ in this matter concluded that the Agency had not provided Petitioner with sufficient time to reply to the Request for Contact, and reversed the Agency's termination. See Initial Decision at 5-6. I agree with the ALJ on this issue, and therefore adopt the Initial Decision on this limited basis, and not based on the issue of purported ineligibility due to excess income.

However, based on the record presented, there does appear to be a reasonable basis for the Agency's Request for Contact. Therefore, Petitioner is to contact the Agency following receipt of this Final Decision in order to provide the



F,17,N,C033973017X,0027,000006906801

BARA003

requested information pertaining to the reported receipt of UIB and earned income. I do note that simplified reporting is utilized for elderly individuals, who receive only unearned income. See N.J.A.C. 10:87-6.26(g) and N.J.A.C. 10:87-9.5(a); see also DFD Instruction ("DFDI") 09-9-9 at 2. Changes in unearned, and/or earned income, are still to be reported within 10 days if over certain amounts. See N.J.A.C. 10:87-9.5(a)(1)(iii) and (2). While Petitioner maintains that he would only need to report a change if the household's total gross income exceeds 130% of the Federal Poverty Level ("FPL"), see N.J.A.C. 10:87-9.5(a)(1), it would appear, based on the record presented, that the total amount of Petitioner's monthly unearned income, in the forms of UIB and Petitioner's monthly disability payments, together with any earned income, would exceed the 130% FPL level. See Initial Decision at 3; see also Exhibits P-3 and R-1 at 6, 7-8. Additionally, receipt of any earned income would disqualify Petitioner from simplified reporting. See N.J.A.C. 10:87-6.26(g) and N.J.A.C. 10:87-9.5(a); see also DFDI 09-9-9 at 2.

As such, I am remanding this matter to the Agency for further reevaluation. Petitioner is to cooperate with providing documentation, requested by the Agency, necessary to determine Petitioner's continued eligibility for SNAP benefits. Should the reevaluation result in a termination of SNAP benefits, Petitioner is without prejudice to request another fair hearing on the termination, as the issue of Petitioner's continued eligibility was not reached in the present matter.

Accordingly, the Initial Decision is hereby ADOPTED, the Agency's determination is REVERSED and the matter is REMANDED to the Agency based on the discussion above.

Officially approved final version.

**MAR - 6 2018**

Natasha Johnson  
Director

