



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Director

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 10178-18 O.W.

AGENCY DKT. NO. C112732015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals the correctness of the Respondent Agency's Supplemental Nutrition Assistance Program ("SNAP") recoupment due to an overissuance. The Agency asserts that Petitioner received SNAP benefits to which he was not entitled, for the period of February 2017, through April 2017, and May 2017, through January 2018, due to Petitioner's failure to report a change in household composition, specifically, that his daughter had attended high school full-time in another state since the 2016-17 school year. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 21, 2018, the Honorable Edward J. Delanoy, Jr., Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 30, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby MODIFY the Initial Decision, AFFIRM the Agency's determination, and REMAND the matter back to the Agency, based on the discussion below.

On December 15, 2016, Petitioner applied for SNAP benefits, and listed his daughter, S.W., as a member of the SNAP household. See Initial Decision at 2; see also Exhibit R-1 at 2. Similarly, on May 10, 2017, Petitioner listed S.W. as a member of the SNAP household on his Interim Reporting Form ("IRF"). See Initial Decision at 2; see also Exhibit R-2 at 1. However, on December 19, 2017, in his application for SNAP benefits, Petitioner listed S.W. as living in another state and attending high school there. See Initial Decision at 2; see also Exhibit R-3 at 2. On that same date, the Agency was notified that S.W. was a full-time high school student in that other state for the 2017-2018 school year, and also attended there as a full-time student for the 2016-2017 academic year. See Initial Decision at 2; see also Exhibit R-4. Petitioner testified that S.W. lives with another family while out-of-state at school, and that Petitioner pays for S.W.'s room and board to the sponsoring out-of-state family. See Initial Decision at 2. Petitioner testified further that S.W. is in that other state from September to May of each year, and that she returns home for two weeks twice a year, as well as for the summer.

Ibid. The ALJ found that S.W. is not part of the SNAP household while she is out-of-state at school for nine months out of the year. See Initial Decision at 4; see also N.J.A.C. 10:87-2.2(a)(3). The ALJ further found that for SNAP purposes, S.W. lives in that other state, and must be considered a resident of that state for nine months. See Initial Decision at 4; see also N.J.A.C. 10:87-3.3(a). Based on the foregoing, the ALJ concluded that SNAP benefits were overissued to Petitioner from February 2017, through April 2017, in the amount of \$439, and from May 2017, through January 2018, in the amount of \$869. See Initial Decision at 5; see also Exhibits R-6 at 5-8, R-7, and N.J.A.C. 10:87-2.2(a)(3), -(c)(2), -3.3(a).



While I concur with the ALJ's finding that Petitioner received overissuances of SNAP benefits to which he was not entitled, I find that Petitioner would be entitled to SNAP benefits, including for S.W., for the months that S.W. is home from school, specifically, for the months of June, July, and August. Therefore, the matter is remanded back to the Agency for a recalculation of the appropriate amount of SNAP benefits for those months, taking into account Petitioner's SNAP household composition during those months, in accordance with N.J.A.C. 10:87-2.2. The amount of the overissuances shall then be adjusted accordingly. The Initial Decision is modified to reflect this finding.

I ORDER and direct that the Agency proceed to recoup the overissuances, following recalculation of same.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's determination is AFFIRMED, and the matter REMANDED to the Agency, as discussed above.

Officially approved final version.

SEP 11 2018

Natasha Johnson

Director

