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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 03904-18 K.S.

AGENCY DKT. NO. C178757013 (MONMOUTH COUNTY DIV. OF SOC. SVCS)

Petitioner challenges the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") recoupment due to an overissuance. The Agency asserts that Petitioner received SNAP benefits, to which she was not entitled, as the result of a failure to report earned income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for April 6, 2018, but was adjourned to allow Petitioner the opportunity to gather documents. On April 27, 2018, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 11, 2018, the ALJ issued an Initial Decision, modifying 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 ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, MODIFY the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

Here, the Agency contends that Petitioner's mother failed to disclose her SNAP household's complete and accurate income. See Initial Decision at 2-3. Specifically, Petitioner's mother failed to disclose Petitioner's earned income, on the May 29, 2012, Interim Report Form ("IRF"), the February 11, 2013, recertification application, and the October 2, 2013, IRF, resulting in an overissuance of SNAP benefits for the months of July 2012 through February 2014, and July 2014 through August 2014, totaling \$3,874. *Ibid.*; see also Exhibits R-2 at 9, 17, and 34, R-3 at 99-105, R-4, and R-9. However, after a thorough review of the record, the ALJ determined that Petitioner had not resided in the SNAP household in 2012, as claimed by the Agency, but that she had resided in the household from February 13, 2013, through October 1, 2014. See Initial Decision at 4-9; see also Exhibit R-9. Further, the ALJ found that although Petitioner's mother passed away on November 18, 2017, the Agency may recoup the overissuance from Petitioner because she was an adult member of the SNAP household when the SNAP overpayment occurred. See Initial Decision at 4, 9-10; see also N.J.A.C. 10:87-2.2(c)(1), -11.20(d), (f)(1)(ii). Based on the foregoing, the ALJ remanded the matter to the Agency to recalculate



the overpayment due for the period of February 13, 2013 through October 1, 2014. See Initial Decision at 9, 11. I agree.

However, because Petitioner was a minor when her mother filed the household's initial SNAP application, and because the representations upon which the Agency largely relied were made by Petitioner's now deceased mother, the ALJ directed the Agency to pursue a plan of community service through which Petitioner could satisfy her SNAP debt. See Initial Decision at 10-11; see also N.J.A.C. 10:87-11.20(o)(1)(v). While N.J.A.C. 10:87-11.20(o)(1)(v) allows court ordered public service as a form of repayment for a SNAP overissuance, I find that an administrative proceeding is not the proper venue for such an order, and I further note that our regulation, in this regard, mirrors the Code of Federal Regulations. See 7 C.F.R. 273.18(g)(7). Moreover, the County Welfare Agencies do not have a procedure in place to administer or monitor such public service. Therefore, I find that Petitioner shall reimburse the Agency in an amount to be determined based on the overissuance of SNAP benefits for the period of February 13, 2013, through October 1, 2014. See Initial Decision at 9, 11. The Initial Decision is modified to reflect this finding.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's action is MODIFIED, and the matter is REMANDED to the Agency based on the discussion above.

Officially approved final version.

Natasha Johnson
Director

MAY 22 2018

