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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 05899-19 M.Y.

AGENCY DKT. NO. C696570007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits, on recertification. The Agency denied Petitioner SNAP benefits, on recertification, contending that Petitioner had failed to provide documentation necessary to determine continued eligibility for SNAP benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 20, 2019, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open for the submission of additional documentation by Petitioner, and the record then closed on May 24, 2019. On August 2, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

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 hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

When income to a household fluctuates from month to month, and a 30-day period alone will not accurately provide an indication of anticipated income, an average of a longer period of time may be utilized to provide a more accurate representation of future income. See N.J.A.C. 10:87-6.9(c)(1), (f). Additionally, N.J.A.C. 10:87-7.2 states that, when calculating income from self-employment, that income "shall be averaged over the period the income covers, even if the household receives income from other sources."

Federal regulatory authority, 7 C.F.R. 273.11(b)(3)(iv), allows States to "use the standard amount the State uses for its [Temporary Assistance for Needy Families] program," and effective December 6, 2013, New Jersey began to use a standard self-employment deduction of 51% for determining countable income from self-employment. See DFD Instruction ("DFDI") 13-12-01; see also N.J.A.C. 10:87-7.3 and N.J.A.C. 10:90-3.9.



N.J.A.C. 10:87-12.4 states, "[t]he maximum allowable gross income standards shall be those calculated by the United States Department of Agriculture and published annually in the Federal Register, pursuant to 7 C.F.R. 273.9(a) and effective October 1 of each year." As such, the maximum gross income standards remain in effect from October 1st of a given year, though September 30th the following year. See DFDI 18-09-01 at 16.

The record in this matter reflects that Petitioner was receiving \$564 a month in SNAP benefits at the time that his prior certification period ended in March 2019. See Initial Decision at 2; see also Exhibit R-1 at 25. The record further shows that on March 20, 2019, the Agency denied Petitioner SNAP benefits, on recertification, for failing to provide current earnings statements from his self-employment as an Uber driver, as well as Petitioner's own construction business. See Exhibit R-1 at 6. Petitioner had purportedly refused to provide the requested documentation, asserting that the numbers reflected in his 2018 tax return were sufficient to determine his continued eligibility. See Initial Decision at 2. Four days following the conclusion of testimony before the ALJ, and while the record still remained open, Petitioner provided Uber earnings statements for January through May, 2019. Id. at 3; see also Exhibit P-1. However, as Petitioner's certification period ended in March, 2019, only the January through March, 2019, Uber statements are relevant, and are used for calculations purposes in this Final Agency Decision.

Based on an independent review of the record, I agree with the ALJ that the Agency did not apply the appropriate 51% deduction to the household's income from self-employment, as required, and that the Agency's determination that Petitioner's household is ineligible for SNAP benefits is improper and must be reversed. See DFDI 13-12-01. However, certain misstated amounts, contained in the Initial Decision must be corrected, and furthermore, using an average of Petitioner's Uber earnings from January to March, 2019, together with Petitioner's other household income, the correct monthly SNAP benefit amount can be calculated.

In order to determine Petitioner's eligibility for SNAP benefits, as a household with income from self-employment, Petitioner's income and resources must be below a certain threshold. First, N.J.A.C. 10:87-5.4(a)(3), -5.9(a)(15), -7.2, -7.3, -7.5, and DFD Instruction ("DFDI") 13-12-01 outline the procedures used to calculate gross income for self-employed SNAP recipients. See Exhibit R-9. Here, Petitioner's household income is derived from Petitioner's self-employment income, as well as his wife's monthly gross earned income. See Initial Decision at 2. The record reflects that Petitioner's gross income from Uber was \$3,816.29 in January 2019, \$2,411.87 in February 2019, and \$2,370.91 in March 2019. See Exhibit P-1. The sum of these three amounts results in a three month total gross income of \$8,599.07, and dividing that number by 3, in order to obtain a monthly average, results in an amount of \$2,866.36. See N.J.A.C. 10:87-7.2. Adding that amount to the average monthly gross income from Petitioner's construction business of \$351.00, results in a monthly total of \$3,217.36 of income from self-employment. See Initial Decision at 2; see also Exhibit R-1 at 17. After applying the standard self-employment deduction of 51 percent to that amount, or \$1,640.85, results in a balance of \$1,576.51. See DFDI 13-12-01. To this amount, Petitioner's wife's monthly earned income of \$1,424.00, is added, (\$1,576.51 + \$1,424.00) for a total household gross income of \$3,000.51. See N.J.A.C. 10:87-6.16(b) (1). This amount is below the maximum gross income level of \$5,202 for a household size of six persons, and therefore, Petitioner is income eligible for SNAP benefits. See DFDI 18-09-01 at 16; see also N.J.A.C. 10:87-12.4.

Next, N.J.A.C. 10:87-6.16 outlines the procedures used to calculate net income for SNAP purposes and benefit levels for SNAP recipients. The regulation provides that the applicant's monthly net income is determined by adding together all earned and unearned income, then subtracting all income exclusions. Then, the standard deduction, based upon the size of the household, is subtracted from the income. Thereafter, the Agency evaluates the household to determine whether a medical deduction is appropriate, and if so, determines further if the household has medical expenses that exceed \$35.00.



See N.J.A.C. 10:87-6.16(b)(5). If the household is entitled to a medical deduction, then the amount in excess of \$35.00 is subtracted from the applicant's income. Next, the applicant is evaluated for an excess shelter deduction. See N.J.A.C. 10:87-6.16(b)(8). Such a deduction is permitted when the individual's shelter costs exceed 50% of their net income. Ibid. If this deduction is allowable, then the difference between the shelter costs and the 50% net income, or up to the maximum allowable amount, is subtracted from the individual's income. See N.J.A.C. 10:87-6.16(b)(9). The remaining figure is Petitioner's net income. This net income is then compared against the maximum allowable net income amount for the household's size, as outlined at N.J.A.C. 10:87-12.3, to determine eligibility. If eligible, the household's monthly SNAP allotment shall be equal to the maximum SNAP allotment for the household's size, reduced by 30 percent of the household's net monthly income. See N.J.A.C. 10:87-12.6(a)(1).

As stated above, Petitioner's household is comprised of six people. See Initial Decision at 2. The household's monthly gross earned income, as determined above, is \$3,000.51. See N.J.A.C. 10:87-7.2, -7.3, -7.5. In accordance with regulatory authority, the household's net monthly earned income totals (\$3,000.51 x .8), or \$2,400.41. See N.J.A.C. 10:87-6.16(b)(2). Petitioner's household has no unearned income. See N.J.A.C. 10:87-6.16(b)(3). After subtracting the correct standard deduction for a household of six of \$234, from the net earned income total of \$2,400.41, Petitioner's household income is reduced to \$2,166.41. See N.J.A.C. 10:87-6.16(b)(4); see also DFDI 18-09-01 at 14. The record indicates no excess medical deduction. See 10:87-6.16(b)(5). Next, it must be determined if Petitioner receives a shelter deduction and, if so, how much. Petitioner's shelter costs are \$1,240 rent, plus \$542 for the Heating and Cooling Standard Utility Allowance ("HCSUA"), totaling \$1,782. See N.J.A.C. 10:87-6.16(b)(8). Subtracted from the total shelter costs of \$1,782, is 50% of Petitioner's net income after the deductions noted above, or half of \$2,166.41, which is \$1083.21, resulting in a positive number in excess of the allowable maximum shelter deduction (\$1,782 - 1083.21 = 698.79) and therefore, Petitioner is entitled to receive the maximum shelter deduction of \$552. See N.J.A.C. 10:87-6.16(b)(8); see also DFDI 18-09-01 at 14 and N.J.A.C. 10:87-12.1(b). Applying the maximum shelter deduction, Petitioner's total net monthly SNAP income is determined to be (\$2,400.41 - 234 - 552), or \$1,614.41. See N.J.A.C. 10:87-6.16(b)(8). Finally, Petitioner's net monthly SNAP income of \$1,614.41 is then multiplied by .3, or \$485. See N.J.A.C. 10:87-12.6(a)(1)(i),(ii). That amount is then subtracted from the maximum benefit for a household of six, (\$914 - \$485), or \$429. See N.J.A.C. 10:87-12.6(a)(1)(iii). Therefore, Petitioner's correct monthly SNAP benefit amount is \$429.

As noted above, the ALJ in this matter concluded that the denial of SNAP benefits to Petitioner by the Agency was improper. See Initial Decision at 3. While I agree with the ALJ's final conclusion in this matter, the ALJ's Initial Decision is hereby modified to reflect the above findings and calculations analysis.

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).

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is REVERSED, as outlined above.

Officially approved final version.

AUG 27 2019

Natasha Johnson
Director

