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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

FINAL DECISION

OAL DKT. NO. HPW **12144-19 N.D.**

AGENCY DKT. NO. **C071521008 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)**

Petitioner challenges the Respondent Agency's demand to repay a purported over issuance of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency demands that Petitioner repay overissued SNAP benefits that she received, and to which she was not entitled, as the result of an agency error. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 25, 2019, the Honorable Catherine A. Tuohy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. The record remained open to allow for post-hearing submissions. Both parties submitted post-hearing briefs on November 22, 2019, and the record closed on that day. On December 4, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on December 11, 2019.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and I hereby ADOPT the Initial Decision and REVERSE the Agency determination.

SNAP is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households. See N.J.A.C. 10:87- 1.1(a). 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 is caused by an action of the Agency itself, called an "Agency Error." See N.J.A.C. 10:87-11.20(e)(3). 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). The Agency shall establish a claim before the last day of the quarter following the quarter in which the overpayment was discovered. See N.J.A.C. 10:87-11.20(g). (emphasis added).

Here, the record reflects that Petitioner began receiving SNAP benefits for herself, her former spouse, and their three children in June, 2010. See Initial Decision at 2; see also Exhibit R-1 at 10. On July 23, 2012, the Agency became aware that Petitioner's former spouse was employed from August, 2010,



through December, 2010. See Initial Decision at 2-3; see also Exhibit R-1 at 4-6. On August 14, 2019, the Agency determined that Petitioner's former spouse's earnings were unreported from August, 2010, through December, 2010, and issued a notice to Petitioner advising her of the overissued SNAP benefits it sought to recoup, in the amount \$1,872. See Initial Decision at 3; see also Exhibit R-1 at 16-19, 20. On September 26, 2019, the Agency notified Petitioner that the amount of overissued SNAP benefits it sought to recoup had been reduced to \$1,079, for the period beginning November, 2010, through December, 2010, as it was determined that the household had been under simplified reporting requirements. See Initial Decision at 3; see also Exhibit R-1 at 50-51, and N.J.A.C. 10:87:9-5.

Years earlier, in October, 2010, Petitioner's former spouse faxed a copy of his paystub to the Agency, confirming that he was employed; however, the fax was not discovered until October, 25, 2019, the date of the fair hearing. See Initial Decision at 3; see also Exhibit R-4. After discovering that Petitioner's former spouse did, in fact, report his earnings in 2010, and as a result of an Agency Error, on November 1, 2019, the Agency issued a revised Notice of Overpayment seeking to recoup an overpayment of \$716 in SNAP benefits, for the months November, 2010, and December, 2010. See Initial Decision at 3; see also Attachment to Agency's Post-hearing Submission, dated November 18, 2019, and N.J.A.C. 10:87-11.20(e)(3).

The ALJ found that, while Petitioner was overissued SNAP benefits in the amount of \$716 in November, 2010, and December, 2010, the Agency became aware of this overpayment as early as July 23, 2012, when it received the employer verification information from Petitioner's former spouse's employer. See Initial Decision at 3, 5; see also Exhibit R-1 at 4-6. The ALJ further found that more than six years have now passed from the time the Agency became aware of the overpayment, until it sought repayment of the overissued SNAP benefits, on August 14, 2019. See Initial Decision at 3-4; see also Exhibit R-1 at 16-19, 20, and N.J.A.C. 10:87-11.20(f)(1)(i). Accordingly, the ALJ concluded that because the Agency did not seek repayment of the overissuance of SNAP benefits within the six years that it became aware of the overpayment, its action to recoup the overissuance is not appropriate, and must be denied. See Initial Decision at 6; see also Attachment to Agency's Post-hearing Submission, dated November 18, 2019, and N.J.A.C. 10:87-11.20(f)(1)(i). I agree. Moreover, the Agency clearly did not establish the claim by the end of the quarter following the discovery of the overpayment, in accordance with applicable regulatory authority. See N.J.A.C. 10:87-11.20(g). Furthermore, the Agency provided no reasonable explanation as to the protracted and lengthy seven year delay in establishing the claim in this matter.

By way of comment, the transmittal in this matter indicates an additional contested issue regarding a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") overpayment. On September 26, 2019, the Agency notified Petitioner that, based upon its review of the WFNJ/TANF overpayment, and as a result of an Agency Error, it reduced the WFNJ/TANF overpayment balance to zero, effectively rescinding its claim to the WFNJ/TANF overpayment. See Initial Decision at 3; see also Exhibit R-1 at 50-51.

By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision, and REVERSE the Agency determination.

Officially approved final version.

Natasha Johnson
Assistant Commissioner

