



## State of New Jersey

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*Assistant Commissioner*

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 **17456-19 C.H.**

AGENCY DKT. NO. **C131788003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner challenges the correctness of the Respondent Agency's recoupment of Supplemental Nutrition Assistance Program ("SNAP") and Emergency Assistance ("EA") benefits, due to overissuances of SNAP and EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On January 15, 2020, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, admitted documents into evidence. The record remained open to allow the parties to submit post-hearing briefs, including reply briefs. The opportunity to submit briefs ended on February 14, 2020, and the record then closed on that day. On February 26, 2020, the ALJ issued an Initial Decision, affirming the Agency's calculation and recoupment of the overissuances of SNAP and EA benefits to Petitioner.

Exceptions to the Initial Decision were received from the Agency on March 2, 2020.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and I hereby MODIFY the Initial Decision, and AFFIRM the Agency determination, based on the discussion below.

In the instance of an overpayment of [SNAP] 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 resulting from a misunderstanding or unintended error on the part of the household, called an Inadvertent Household Error ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). 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 county or municipal agency shall seek recovery of all overpayment, including emergency assistance, regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions. See N.J.A.C. 10:90-3.21(a)(1).



Here, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner had received an overissuance of SNAP and EA benefits to which she was not entitled. See Initial Decision at 6. Specifically, the ALJ found that Petitioner failed to report earned income, and as a result, received an overissuance of SNAP benefits in the amount of \$368, and an overissuance of EA benefits in the amount of \$1,550, for the period beginning September, 2013, through October, 2013. See Initial Decision at 2, 6; see also Exhibit R-3 at 24, 25, 27, 32-34, 35-37, and N.J.A.C. 10:87-5.5.(a)(1), and N.J.A.C. 10:90-3.11(e). The ALJ further found Petitioner received and overpayment of SNAP and EA benefits, which must be repaid to the Agency. See Initial Decision at 6; see also N.J.A.C. 10:87-11.20(e), and N.J.A.C. 10:90-3.21(a)(1). Accordingly, the ALJ concluded that the Agency may seek repayment of the SNAP and EA benefits overissuances from Petitioner, and remanded the matter back to the Agency to determine whether repayment would create a financial hardship to Petitioner. See Initial Decision at 6, 7.

While I agree with the ALJ's conclusion, that the Agency is entitled to recoup the overissuances of SNAP and EA benefits issued to Petitioner, I find that there is no basis to remand this matter back to the Agency, for the following reasons. As it pertains to the Agency seeking to recoup the overissuance of EA benefits, the repayment of overissued EA benefits is not subject to Petitioner's financial hardship, and must be repaid in full. See N.J.A.C. 10:90-3.21. Regarding the Agency's efforts to recoup the overissuance of SNAP benefits, the Agency may compromise a claim or any part of a claim, if it can be reasonably determined that Petitioner's economic circumstances dictate that the claim will not be paid in three years. See N.J.A.C. 10:87-11.20(m)(1). Here, based upon an independent review of the record, I find that the Agency has taken into consideration Petitioner's ability to repay the \$368 in overissued SNAP benefits, and based upon applicable regulatory authority, determined that Petitioner must repay \$10.23 per month. *Ibid.*; see also Agency Exceptions, dated February 27, 2020. The Initial Decision is modified to reflect these findings.

Based on the foregoing, I ORDER and direct the Agency to proceed to recoup the overissuances.

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 determination is AFFIRMED, as outlined above.

**APR 30 2020**

Officially approved final version.

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Natasha Johnson  
Assistant Commissioner

