



## State of New Jersey

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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 00058-20 L.B.

AGENCY DKT. NO. C164414020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner challenges the correctness of the Respondent Agency's recoupment of Supplemental Nutrition Assistance Program ("SNAP") benefits, due to an overissuance. The Agency asserts that, during the period from December 2016, through August 2017, 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 January 17, 2020, but was adjourned at the request of Petitioner. The matter was rescheduled, and on February 3, 2020, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. On February 5, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on March 5, 2020.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, the ALJ's Initial Decision is hereby REJECTED and the Agency determination is AFFIRMED.

In accordance with N.J.A.C. 10:87-6.16(d)(2), in determining SNAP benefits eligibility, households that do not contain an elderly or disabled household member must meet both the gross income test, as well as the net income test, meaning that the respective income amounts must be below the established standards. See also N.J.A.C. 10:87-12.3, -12.4.

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 results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2).

In the present matter, the ALJ concluded that, as the household's gross income was below the maximum gross income allowable, the family must be eligible for SNAP benefits. See Initial Decision at 4. The ALJ further opined that the documents entered into evidence in the case did not support the Agency's



assertion that, had Petitioner's unreported income been included in the requisite eligibility calculations, Petitioner would not have been eligible to receive any SNAP benefits. See Initial Decision at 3, 4. Based on an independent review of the record, both of these assertions are incorrect, as shall be discussed in detail below.

In order to determine an applicant's eligibility for SNAP, the applicant's income and resources must be below a certain threshold. See N.J.A.C. 10:87-12.3, -12.4. N.J.A.C. 10:87-6.16 outlines the procedures used to calculate gross income and net income, as well as benefit levels for those determined eligible for receipt of SNAP benefits. 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 household is evaluated to determine if a medical deduction is appropriate, which is if the household has medical expenses that exceed \$35.00. If the household is entitled to a medical deduction, then the amount in excess of \$35.00 is subtracted from the applicant's income. Then, the applicant is evaluated for an excess shelter deduction. Such a deduction is permitted when the individual's shelter costs exceed 50% of their net income. 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. 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 food stamp 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).

Based on an independent review of the record, at the time in question, between December 2016, and August 2017, Petitioner's household was comprised of four people, and there is no indication that anyone in the household is either elderly or disabled. See Initial Decision at 2. It is not disputed that, at that time, the household's reported monthly earned income was \$2,058. *Id.* at 3. The maximum allowable gross income for receipt of SNAP benefits for the household size at that time was \$3,747. *Id.* at 2, 3; see also DFD Instruction ("DFDI") 16-9-1 at 12. The record then shows that in August 2017, the Agency learned that Petitioner herself had earned income, which had not been previously reported to the Agency, in the amount of \$300-\$400 per week. See Exhibit R-1 at "Memo" dated 8/9/17 and "Letter from Petitioner's Employer" dated August 1, 2017. Using an average amount of \$350, times the weekly multiplier of 4.333, resulted in an unreported monthly earned income amount of \$1,517. See Exhibit R-1 at "Employer Letter dated August 1, 2017;" see also N.J.A.C. 10:87-6.9(d). To determine the household's SNAP benefits eligibility, including the unreported monthly earned income, the following calculation is done, as reflected in Exhibit R-1 at "Overissuance computation – Public Assistance and Nonpublic Assistance NJ SNAP" (hereinafter "Overissuance Computation"). First, the household's gross income is multiplied by 80% or \$1646 (\$2508 x .8). See N.J.A.C. 10:87-6.16(b)(2). As this is a failure to report case, the full amount of the unreported earned income is added to that amount, and not reduced to 80%, or \$3,163 (\$1646 + \$1517). See N.J.A.C. 10:87-11.20(f)(1)(ii). The record reflects that Petitioner's household had no unearned income. See N.J.A.C. 10:87-6.16(b)(3). After subtracting the correct standard deduction for a household of four of \$168, as well as a child support deduction of \$87, or \$255 from the earned income total of \$3,163, Petitioner's household income is reduced to \$2908. See Overissuance Computation and N.J.A.C. 10:87-6.16(b)(4), (7). Next is to determine if Petitioner receives a shelter deduction and if so, how much. Petitioner's shelter costs total \$1651, which includes rent of \$1,150 and the Heating and Cooling Standard Utility Allowance ("HCSUA") of \$501. See N.J.A.C. 10:87-6.16(b)(8); see also DFDI 16-9-1 at 11. Subtracted from the total shelter costs of \$1651, is 50% of Petitioner's income after the above deductions, or half of \$2,908, which is \$1454, resulting in a shelter deduction of \$197 (\$1651 - \$1454). See N.J.A.C. 10:87-6.16(b)(8). This amount is then subtracted from Petitioner's income minus the deductions (\$3163 - \$255 - \$197), resulting in a net monthly income of \$2,711. See N.J.A.C. 10:87-6.16(b)(9). As Petitioner's household does not contain an elderly or



disabled individual, the household must meet the net income test. See N.J.A.C. 10:87-6.16(d)(2). The maximum allowable net income, at the time in question, was \$2,025. See DFDI 16-9-1 at 11. As Petitioner's household net income, including the unreported monthly earned income in the calculations, has been determined to be \$2,711, and therefore above the maximum allowable of \$2,025, Petitioner was not eligible for SNAP benefits in December 2016, through February 2017. This is substantiated by the Overissuance Computation for those months in the record, and further reflects that Petitioner received SNAP benefits in the amount of \$386 for those months to which she was not entitled. See Exhibit R-1 at Overissuance Computation at 1-6.

Similarly, between March 2017 and August 2017, Petitioner was also not eligible for SNAP benefits, as further substantiated by the Overissuance Computations for those months. See Exhibit R-1 at Overissuance Computation at 7-18. During that time period, Petitioner did not receive an \$87 deduction for child support payments, as she had in previous months. With the household's gross income, including the unreported earned income, remaining constant at \$3,163, and only the standard deduction of \$168 being applied to the calculations, the household's net income then increases to \$2,842 after completing the calculations, as done above, outlined in N.J.A.C. 10:87-6.16(b). Ibid. Again, as the household's net income of \$2,842 is above the maximum allowable of \$2,025, Petitioner was not eligible for the \$360 per month in SNAP benefits that the household received during this time period. Ibid.

Thus, in total, I find that Petitioner received an overissuance of SNAP benefits, \$386 per month from December 2016, through February 2017, and \$360 per month from March 2017, through August 2017, for a total of \$3,318. Id. at 20; see also Exhibit R-1 at "Demand Letter" dated October 24, 2019. I ORDER and direct that the Agency proceed to recoup the overissuance.

By way of comment, the Agency is reminded that Exceptions to an Initial Decision "must be received by DFD no later than seven days after the date the Initial Decision was mailed to the parties." See N.J.A.C. 1:10-18.2.

Based on the foregoing, the Initial Decision is hereby REJECTED, and the Agency's determination is AFFIRMED.

Officially approved final version.

MAR 25 2020

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Natasha Johnson  
Assistant Commissioner

