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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

REMAND DECISION

OAL DKT. NO. HPW 3992-17 M.H.

AGENCY DKT. NO. C470918007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner challenges the correctness of Respondent Agency's reduction, and subsequent termination, of her Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency reduced Petitioner's SNAP benefits due to an increase in earned income, and then terminated her benefits for failing to submit documentation necessary to recertify for SNAP benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. The case was originally scheduled for April 13, 2017, and adjourned. On May 24, 2017, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. On May 25, 2017, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were filed by either party.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, I hereby REJECT the ALJ's Initial Decision, AFFIRM the Agency's determination as to the reduction of benefits, and REVERSE the Agency determination as to the termination of benefits, and REMAND the termination issue back to the Agency for further action as outlined below.

Here, the record indicates that Petitioner had been receiving SNAP benefits in the amount of \$276 when, on August 31, 2016, the Agency informed Petitioner that her monthly benefit amount would be reduced to \$45 effective October 1, 2016, due to earned income. See Initial Decision at 2; see also Exhibit R-1 at 3. Thereafter, Petitioner received \$276 in SNAP benefits in September 2016, \$75 in October 2016, \$75 in November 2016, and \$16 in December 2016. See Initial Decision at 3. From January 2017, to the present, Petitioner has not received SNAP benefits. Ibid. The ALJ noted that Petitioner stopped working for her previous employer in January 2017, and began receiving Unemployment Insurance Benefits ("UIB") in the amount of \$201.00 per week in mid-April, which she has continued to receive since that time. See Initial Decision at 2.

The Agency contends that Petitioner's SNAP benefits were terminated because she failed to recertify for benefits at the end of November, or early December, 2016. See Initial Decision at 3. However, the ALJ maintained that the Agency had failed to provide any documentation at the hearing to show its calculations, verification of income, or that it had requested that Petitioner return to the Agency to recertify for benefits. Ibid. Therefore, the ALJ concluded that the Agency had failed to meet its burden of proof that Petitioner's benefits were properly reduced, and subsequently terminated. Id. at 3, 4-5. The ALJ also concluded that Petitioner is entitled to \$276 in monthly back benefits from October 2016 to the present, until such time that the Agency could ascertain the appropriate benefit amount. Id. at 5.



Following an independent review of the record, I disagree with, and hereby reject the ALJ's Initial Decision. Pursuant to N.J.A.C. 10:87-8.5, "a household may request a hearing on any action by the CWA or loss of benefits which occurred within the prior 90 days." The transmittal in this matter reveals that Petitioner requested a fair hearing in this matter on March 20, 2017, and as such, Petitioner's request is clearly beyond the 90 day period within which to request a fair hearing as to the reduction of Petitioner's benefits which occurred in October, November and December, 2016, and therefore, is out of time. Accordingly, Petitioner's appeal on the reduction of benefits is dismissed and the Agency's action is affirmed.

With respect to the termination of Petitioner's SNAP benefits, the regulations pertaining to recertification are clear that "no household may participate beyond the expiration of the certification period without a determination of eligibility for a new period." See N.J.A.C. 10:87-9.1(a). Furthermore, when a household does not submit a new application by the end of the certification period, the Agency shall close the case without further action. See N.J.A.C. 10:87-9.2(c)(3). While the record is silent as to Petitioner's precise certification period end date, based on the fact that Petitioner received SNAP benefits of \$16 in December 2016, and no benefits thereafter, it would appear that the certification end date was probably at the end of December 2016. Based on these facts and application of legal authority, it would appear that the Agency closed Petitioner's SNAP case after Petitioner failed to recertify, as contended by the Agency at the hearing before the ALJ. See Initial Decision at 3. Petitioner maintained, however, that she went to the Agency offices in late November or early December to recertify, although she offered no evidence of her application for recertification, or of her visit to the Agency during the purported timeframe.

In light of the conflicting facts, I am remanding the issue of the termination of Petitioner's SNAP benefits back to the Agency. Petitioner is to provide the Agency with evidence of her recertification application within 10 days of the date of this Final Agency Decision; the Agency shall verify the certification end date and whether or not Petitioner's application was, in fact, submitted, and if the recertification application process, as outlined in N.J.A.C. 10:87-9.1, was completed. If it is determined that the application was timely submitted, and the requisite interview and verifications were completed, but the application was not processed due to Agency error, then any lost benefits, if applicable, shall be restored. See N.J.A.C. 10:87-11.11. If it is determined that the recertification application process was not completed, then the Agency's termination of SNAP benefits is affirmed.

Accordingly, the Initial Decision in this matter is hereby REJECTED, the Agency's determination as to the reduction of SNAP benefits is AFFIRMED, and the Agency's determination as to the termination of SNAP benefits is REVERSED and REMANDED to the Agency for further action as outlined above.

Officially approved final version.

Natasha Johnson
Director

