



State of New Jersey

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NATASHA JOHNSON  
*Director*

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 09505-18 E.S.

AGENCY DKT. NO. C454187007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of his Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits as it contended that he failed to submit an application for recertification of SNAP benefits following a telephone interview. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 6, 2018, the Honorable Joann LaSala Candido, Administrative Law Assignment Judge (hereinafter "ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. On August 7, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on August 20, 2018.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision and hereby ADOPT the ALJ's Initial Decision, REVERSE the Agency action, and REMAND the matter back to the Agency, based on the discussion below.

Here, the record reflects that Petitioner has been a recipient of SNAP benefits since 2009. See Initial Decision at 2. On April 6, 2018, Petitioner was notified that his recertification appointment for SNAP benefits would take place by way of a telephone interview on April 19, 2018. See Exhibit R-2; see also N.J.A.C. 10:87-9.1(e). Following the telephone interview, Petitioner was to receive, in the mail, an application for recertification of SNAP benefits. See Initial Decision at 3; see also N.J.A.C. 10:87-9.1(d). On June 15, 2018, Petitioner attempted to contact the Agency multiple times to inquire as to when he would receive the recertification application. See Initial Decision at 2. The Agency later contacted Petitioner and advised that he could come into the Agency and fill out an application, or an application could be mailed to him, or an application could be brought to his home. Ibid. The Agency further advised Petitioner that exercising any of the aforementioned options required him to waive back SNAP benefits. Ibid. At the hearing, the Agency did not produce any evidence that an application had been mailed, and relied only upon a Request for Contact letter dated April 19, 2018, advising Petitioner that his case may be closed if he did not respond or provide the requested information. Ibid.; see also Exhibit R-1. The ALJ found Petitioner to be credible when he testified that he had made 31 calls to the



Agency on June 15, 2018, when he did not receive the recertification application. See Initial Decision at 3. The ALJ further found that the Agency did not send Petitioner a termination or denial notice. *Id.* at 3-4; see also N.J.A.C. 10:87-2.27(e)(1)(i), (ii). Based on the foregoing, the ALJ concluded that the Agency's decision to terminate Petitioner's SNAP benefits was improper and must be reversed. See Initial Decision at 4. I agree.

The ALJ further concluded that Petitioner is to be provided with retroactive SNAP benefits, after Petitioner receives an application for recertification of SNAP benefits and provides the Agency with the requested verification information. *Ibid.*; see also Exhibit R-1, and N.J.A.C. 10:87-6.3, -8.18. I also agree. Therefore, I direct that the Agency immediately provide Petitioner with an application, if it has not already done so. Petitioner shall then provide the Agency with a completed application, together with the requested verification information, within 15 days of receipt of same, if he has not already done so. Thereafter, the Agency shall expedite review of Petitioner's application and provide Petitioner retroactive SNAP benefits to the beginning of his certification period. See N.J.A.C. 10:87-8.18. The matter is remanded for handling accordingly.

By way of comment, the ALJ noted that the Agency did not provide a regulatory basis for the assertion that Petitioner was required to waive back SNAP benefits after Petitioner failed to file the requisite application for recertification. See Initial Decision at 3. It is important to note that, had Petitioner's application for recertification been sent to him in a timely manner, and Petitioner had then submitted the recertification application after the certification period had ended, then his application would have been considered an initial application, and benefits would have been prorated, with no back benefits given. See N.J.A.C. 10:87-6.3(b). However, based on the specific, distinguishing facts presented in this case, and the ALJ's finding that no application had been sent to Petitioner due to the Agency's error, Petitioner should not be penalized for the Agency's failure to provide the necessary application for recertification. Corrective action is therefore required and permissible pursuant to applicable regulatory authority. See N.J.A.C. 10:87-8.18.

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, the Initial Decision in this matter is hereby ADOPTED, the Agency's determination is REVERSED, and the matter is REMANDED back to the Agency as outlined above.

Officially approved final version.

**AUG 27 2018**

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Natasha Johnson  
Director

