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NATASHA JOHNSON
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

REMAND DECISION

OAL DKT. NO. HPW 00858-20 C.A.

AGENCY DKT. NO. C142985003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner challenges the correctness of the Respondent Agency's reduction of the household's Supplemental Nutrition Assistance Program ("SNAP") benefits. The household's SNAP benefits were reduced due to an increase in household income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 19, 2020, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 3, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination.

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

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, as discussed below.

In accordance with applicable regulatory authority, "Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed, fertilizer, [] equipment, machinery, and other durable goods[.]" See N.J.A.C. 10:87-7.5(a).

Here, the record reflects that on October 10, 2019, Petitioner submitted an Interim Reporting Form ("IRF") advising the Agency, among other things, that her household's monthly earned income had increased to \$1,720, due to an increase in her spouse's work hours; that the household's unearned income, in the form of child support payments, had decreased to \$589.12; and that Retirement, Survivor's and Disability Insurance ("RSDI") benefits received for her two children, had increased to \$126 for each child. See Initial Decision at 2-3; see also Exhibit R-1 at Tabs 4, 5, 6, 8, and N.J.A.C. 10:87-9.5(a)(3)(i). On that same date, Petitioner submitted a self-employment ledger for the period beginning August, 2019, through September, 2019, listing her spouse's income as a self-employed mechanic, as \$2,850, and also listing \$1,130 in expenses. See Initial Decision at 3; see also Exhibit R-1 at Tab 7. Thereafter, on November 19, 2019, the Agency notified Petitioner that, effective December 1, 2019, the household's SNAP benefits would be reduced, because her household's income had increased, due to the increase in RSDI benefits, and her spouse's earned income. See Initial Decision at



2; see also Exhibit R-1 at Tab 1, and N.J.A.C. 10:87-5.3, -5.4(a)(1), -5.5(a)(2). The Agency determined that, for the purpose of determining Petitioner's monthly SNAP benefit allotment, her spouse's self-employment income totaled \$2,450. See Initial Decision at 3, 4; see also Exhibit R-1 at Tab 2. Also, the Agency did not exclude any of Petitioner's spouse's costs for expenses, as it contends that Petitioner did not include an income tax return itemizing certain business expenses. See Initial Decision at 4; see also Exhibit R-1 at Tab 7; see also N.J.A.C. 10:87-7.2(a)(1).

Petitioner, however, contends that her spouse's self-employment net income totals \$1,720 (\$2,850 in income earned from August, 2019, through September, 2019, minus \$1,130 in expenses incurred for the same time period). See Initial Decision at 4; see also Exhibit R-1 at Tab 7. Petitioner further contends that the expenses incurred by her spouse as an independent contractor, are the costs for producing self-employment income, and should be excluded from earned income, when determining the household's SNAP benefit amount. See Initial Decision at 4-5; see also Exhibit R-1 at Tab 7, and N.J.A.C. 10:87-5.9(a)(15), -7.3(a).

The ALJ found that the costs for the tools listed on the self-employment ledger fit the allowable costs, as listed in N.J.A.C. 10:87-7.5. See Initial Decision at 8; see also Exhibit R-1 at 7. The ALJ further found that the costs of purchasing tools are business-related expenses that should be included to determine the household's net monthly income, and that without this information, the SNAP benefit amount for which Petitioner may be eligible, cannot be correctly calculated by the Agency. See Initial Decision at 6. Finally, regarding the absence of a tax return, the ALJ found that a tax return is merely an example of an instrument that can be used to determine anticipated earnings when certain conditions are met, and that even if a tax return is used to calculate anticipated earnings, the cost of producing self-employment income, must still be calculated. See Initial Decision at 7, 8; see also N.J.A.C. 10:87-7.2(a)(1), and DFD Instruction Number 10-01-03. While the ALJ concluded that the costs of the tools should be deducted from the calculation of the Petitioner's total household monthly net income, the costs of the parts would not, as those costs are reimbursed by the customer directly. See Initial Decision at 8. The ALJ further concluded that the Agency shall recalculate Petitioner's SNAP benefit allotment using the appropriate deductions for the cost of producing her spouse's self-employment income. *Ibid.*; see also N.J.A.C. 10:87-5.9(a)(15), -7.5(a). Based on the record presented, I agree.

Accordingly, I am remanding this matter back to the Agency for action as follows. Within 15 days from the date of issuance of this Final Agency Decision, Petitioner is to provide a ledger that lists only the costs of the tools purchased by her spouse, and any other business expense deductions. See Initial Decision at 9; see also Exhibit P-1, and N.J.A.C. 10:87-7.5(a). When such proof is provided, the Agency shall utilize those deductions to calculate the gross and net income in accordance with N.J.A.C. 10:87-7.3(a) and reassess the household income for eligibility and respective monthly SNAP benefit amount, if applicable. See N.J.A.C. 10:87-6.16(b)(8).

By way of comment, the transmittal in this matter indicates an additional contested issue regarding a purported failure of a settlement, which was not addressed by the ALJ. Therefore, if Petitioner still has an issue concerning a previous settlement agreement, she may request another fair hearing, on that issue alone.

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

Officially approved final version.

Natasha Johnson
Assistant Commissioner

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