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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 16533-19 E.F.

AGENCY DKT. NO. C214803020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Petitioner's application for Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner's application for SNAP benefits, contending that her household net income exceeded the maximum level for which SNAP benefits may be issued. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for December 13, 2019, but was adjourned at the request of Petitioner. On the rescheduled hearing date of January 31, 2020, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On February 6, 2020, the ALJ issued an Initial Decision, reversing 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 considered the record in this matter, and hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency determination, and REMAND the matter to the Agency, as discussed below.

In accordance with N.J.A.C. 10:87-5.10(a)(6), after completing the requisite calculation in N.J.A.C. 10:87-6.16(b)(8) and (9), shelter deductions are capped at the amount determined in N.J.A.C. 10:87-12.1(b), unless the household contains a member who is elderly or disabled. Effective October 1, 2019, the maximum shelter deduction for such households is \$569. See DFD Instruction ("DFDI") 19-09-01.

Furthermore, households that do not have an elderly or disabled member must meet both the gross income test, as well as the net income test. See N.J.A.C. 10:87-6.16(d)(2).

Here, the record reflects that Petitioner has a household of four persons and applied for SNAP benefits in October, 2019. See Initial Decision at 2-3. At the time of Petitioner's application for SNAP benefits, Petitioner's household monthly earned income totaled \$1,978, and the household monthly unearned income, comprised of bi-weekly spousal and child support payments, totaled \$1,304. Id. at 2; see also



Exhibit P-2, R-1, and N.J.A.C. 10:87-5.3, -5.4(a)(1), -5.5(a)(5). Petitioner received a shelter deduction, after utilizing \$1,356 of shelter costs in the calculations, as outlined in N.J.A.C. 10:87-6.16(b)(8) and (9). See Initial Decision at 3; see also Exhibits P-3, R-1, and N.J.A.C. 10:87-6.16(b)(8), (9), -12.1(b). On October 22, 2019, the Agency denied Petitioner's application for SNAP benefits, on the basis that, after all applicable regulatory deductions, her monthly net household income exceeded the level for which SNAP benefits may be issued. See Initial Decision at 3; see also Exhibits P-1, R-1 and N.J.A.C. 10:87-6.16(d)(2).

Petitioner testified that she remarried several years ago, and that she no longer receives spousal support. See Initial Decision at 3; see also Exhibit P-2. Moreover, the ALJ opined that the Agency used shelter costs of \$1,356 in its calculations, rather than Petitioner's full mortgage payment of \$1,807.57, and had the Agency factored the full amount of Petitioner's mortgage payment when it determined Petitioner's eligibility for SNAP benefits, she would have qualified for SNAP benefits. See Initial Decision at 3, 5; see also Exhibit P-3, and N.J.A.C. 10:87-6.16(b)(8), (9), -12.1(b). Accordingly, the ALJ concluded that Petitioner did provide the Agency with enough information to prove her eligibility for SNAP benefits, and reversed the Agency's denial of Petitioner's application for SNAP benefits. See Initial Decision at 5; see also Exhibit P-1. The ALJ ordered Petitioner to provide the Agency with updated documentation to verify the actual amount of spousal support she receives, if any, and thereafter, the Agency is to recalculate Petitioner's eligibility for SNAP benefits. See Initial Decision at 5.

While I agree with the ALJ, that Petitioner's eligibility for SNAP benefits must be re-evaluated by the Agency, I note that Petitioner can only be considered for SNAP benefits eligibility retroactive to the date of a filed application and all necessary verification. See N.J.A.C. 10:87-6.2. As such, when Petitioner provides the verification of how much spousal support she receives, her SNAP application will be considered complete, and therefore, any eligibility for SNAP benefits will be determined as of that date. See Initial Decision at 5; see also N.J.A.C. 10:87-2.22(c)(1), -6.2.

Additionally, it should be further noted that, because Petitioner's household does not contain an elderly or disabled member, even utilizing Petitioner's full mortgage payment of \$1,807.57 in the requisite calculations outlined in N.J.A.C. 10:87-6.16(b)(8), (9), Petitioner's shelter deduction will be capped at a maximum of \$569. See N.J.A.C. 10:87-5.10(a)(6); see also DFDI 19-09-01 at 11. Therefore, inclusion of Petitioner's full mortgage amount may not definitively result in the receipt of SNAP benefits, as opined by the ALJ. Furthermore, Petitioner will need to meet both the gross income and net income test to be determined eligible for receipt of SNAP benefits. See N.J.A.C. 10:87-6.16(d)(2).

Accordingly, I am remanding the matter back to the Agency. Upon receipt of verification from Petitioner regarding the actual amount, if any, of spousal support received, the Agency shall then reevaluate Petitioner's eligibility for SNAP benefits retroactive to the date her SNAP application was deemed complete, which will include the updated verification of spousal support, as well as using Petitioner's current full mortgage payment in the calculations. See Initial Decision at 5; see also N.J.A.C. 10:87-2.22(c)(1). Petitioner is advised to timely provide all requested documentation, and the Agency shall assist her, as needed. See N.J.A.C. 10:87-2.14. The Initial Decision is modified to reflect these findings.

By way of comment, only one adjournment may be granted in SNAP fair hearings, which shall not exceed 30 days. See N.J.A.C. 10:87-8.6(a)(4)(i) and N.J.A.C. 1:10-9.1(b). It should be noted that the adjournment in this case extended well beyond the permissible maximum of 30 days.

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



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Officially approved final version.

Natasha Johnson
Assistant Commissioner

