



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT

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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

AMENDED DECISION

OAL DKT. NO. HPW 02983-20 J.E.

AGENCY DKT. NO. S485661012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

A Final Agency Decision ("FAD") was issued in this matter on September 3, 2020. This Amended FAD is being issued to recognize receipt of Exceptions filed by Petitioner, and received by this office on September 15, 2020.

Petitioner appeals the Respondent Agency's termination of Petitioner's Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits due to Petitioner's failure to provide requested documentation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 7, 2020, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents. The record remained open to allow Petitioner to provide additional information due by July 17, 2020. The Agency's response thereto was due by July 27, 2020. On July 17, 2020, Petitioner requested, via electronic mail, an extension of time to provide additional information, but the request was not timely received. On July 23, 2020, Petitioner sent a second request seeking an extension of time to provide additional information. The July 17, 2020, electronic mail, and the July 23, 2020, electronic mail, were both received on July 24, 2020. Petitioner was granted a two-week extension, making his submission then due on August 7, 2020, and the Agency's response then due on August 13, 2020. No additional information was received from Petitioner, and the record then closed on August 7, 2020.

On August 20, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reflects that the Agency became aware that Petitioner, a SNAP benefits recipient continuously since 2010, owned a business that he operated from within his home, and did report earned income. See Initial Decision at 2; see also Exhibits R-1 at 1, 3, 6, R-2 at 24-31, and N.J.A.C. 10:87-5.4(a)(1), (3). On January 22, 2020, the Agency requested that Petitioner provide, among other items, copies of six recent months of bank statements, 2017 and 2018 Federal Income Tax returns, including Schedule C forms, and rental lease. See Initial Decision at 3; see also Exhibit R-4 at 1. Petitioner had until February 1, 2020, to provide the requested items. Ibid. On January 30, 2020, Petitioner was granted a ten-day extension to provide the requested documents. See Initial Decision at 3-4; see also Exhibit R-4 at



1. Thereafter, on February 10, 2020, Petitioner provided some of the requested items to the Agency, but did not produce the Federal Income Tax returns, the latest rental lease, and the automobile insurance declaration page. See Initial Decision at 4. On that same date, the Agency referred Petitioner's case for an investigation, as Petitioner did not provide information regarding his business. *Ibid.*; see also Exhibit R-1 at 15. Based upon its investigation, the Agency determined that Petitioner owned three businesses over the time he had received SNAP benefits, specifically beginning 2010, through the present. See Initial Decision at 4; see also Exhibits R-2 at 24-31, R-6. Moreover, as a result of an administrative subpoena issued as part of its investigation, the Agency obtained a limited amount of Petitioner's bank records. See Initial Decision at 5; see also Exhibit R-8.

Because Petitioner did not provide all of the requested documentation, on February 20, 2020, the Agency notified Petitioner that his SNAP benefits would be terminated, effective March 1, 2020. See Initial Decision at 3; see also N.J.A.C. 10:87-2.16, -2.27(e)(1).

Petitioner testified that he had several doctor appointments between January 24, 2020, and February 27, 2020, and that he had to choose his health over providing information to the Agency. See Initial Decision at 7. Petitioner further testified that he had difficulty obtaining bank statements, that his only income is from Retirement, Survivors and Disability Insurance ("RSDI") benefits, and that the Agency should have known about his companies, as it is public information. *Id.* at 8. The ALJ found that, despite being provided additional time to produce the requested documents, Petitioner failed to produce complete records. *Id.* at 10 (emphasis added). The ALJ further found that Petitioner failed to report ownership of three companies over a ten-year period that he had received SNAP benefits, and that this information was required by the Agency to determine Petitioner's eligibility for SNAP benefits. ~~*Ibid.* Based on the evidence presented, the ALJ concluded that Petitioner has not~~ provided sufficient information to the Agency so that his income could be verified. *Ibid.*; see also N.J.A.C. 10:87-2.19(b). Accordingly, the ALJ affirmed the Agency's termination of Petitioner's SNAP benefits. See Initial Decision at 10; see also N.J.A.C. 10:87-2.22, -2.27. I agree.

Exceptions to the Initial Decision were filed by Petitioner on September 15, 2020.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision and I concur with the ALJ's decision and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

By way of comment, I have reviewed Petitioner's Exceptions, and I find that they do not alter my decision in this matter. Moreover, Petitioner included documents with his Exceptions which were not introduced before the ALJ at the hearing. I am not permitted to consider documents as evidence that were not submitted at the hearing for consideration by the ALJ. See N.J.A.C. 1:1-18.4(c).

By way of further comment, Petitioner is advised that, in accordance with applicable regulatory authority, he is permitted to file written Exceptions within 13 days from the date the Initial Decision is mailed. See N.J.A.C. 1:1-18.4(a). In the present case, the Initial Decision was mailed to the parties on August 20, 2020. Therefore, Petitioner had until September 2, 2020, to file written Exceptions. As noted above, BARA received Petitioner's Exceptions on September 15, 2020.

Also by way of further comment, Petitioner is without prejudice to re-apply for SNAP benefits, but is reminded that he must provide all documentation requested by the Agency.

By way of final comment, as Petitioner had been receiving continued assistance of SNAP benefits pending the outcome of this fair hearing, the termination of Petitioner's SNAP benefits was effective as of September 3, 2020, the original date of the issuance of the Final Agency Decision.

Accordingly, the Initial Decision in this matter is ADOPTED, and the Agency's action is hereby AFFIRMED.



Officially approved final version. SEP 22 2020

Natasha Johnson
Assistant Commissioner

