



State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

SARAH ADELMAN  
*Acting Commissioner*

SHEILA Y. OLIVER  
*Lt. Governor*

TRENTON, NJ 08625-0716

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 00898-21 A.G.

AGENCY DKT. NO. C153344007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits, contending that Petitioner's household's monthly unearned income exceeded the maximum permissible level for receipt of said benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A plenary hearing was initially scheduled for March 3, 2021, but was adjourned at Petitioner's request due to her inability to receive the Agency's hearing exhibits electronically. The matter was rescheduled, and on March 17, 2021, the Honorable Sarah H. Surgent, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. On March 30, 2021, the ALJ issued an Initial Decision, affirming the Agency's termination, but ordering the maximum September 2020 benefit allotment for Petitioner's household size.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, the ALJ's Initial Decision is hereby MODIFIED, the Agency determination is AFFIRMED, and the matter is REMANDED to the Agency for further action, based on the discussion below.

SNAP is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households. See N.J.A.C. 10:87- 1.1(a).

Regulatory authority applicable to SNAP benefit cases, defines income as "all income from whatever source unless such income is specifically excluded." See N.J.A.C. 10:87-5.3. Additionally, for SNAP benefits cases, unearned income includes survivors, disability, and Social Security benefits for both adults and children in the household. See N.J.A.C. 10:87-5.5(a)(2). Further, N.J.A.C. 10:87-5.5(a)(2) specifically includes "unemployment compensation" as unearned income which is to be included when determining a household's SNAP eligibility.



In accordance with N.J.A.C. 10:87-6.16(b)(1), households which contain an elderly or permanently disabled individual, as defined by N.J.A.C. 10:87-2.34, must meet the net income test for SNAP eligibility. N.J.A.C. 10:87-6.16(d)(2), states that households that do not contain an elderly or permanently disabled household member must meet both the gross income test, as well as the net income test, meaning that the respective income amounts must be below the established standards. See also N.J.A.C. 10:87-12.3, -12.4.

In the instance of an overpayment of benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. One type of overpayment which is subject to recoupment is one which results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Repayment of overissuances may be sought for amounts going back six years prior to the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, the record reflects that Petitioner applied for SNAP benefits on September 6, 2020. See Initial Decision at 2; see also Exhibit R-10 at 2. The application lists Petitioner and her two adult disabled sons, D.G. and K.D., as members of the SNAP household, although Petitioner maintained that she only intended to apply for SNAP benefits for herself. See Initial Decision at 2. Notably, the record further shows that the only income listed on Petitioner's application was Supplemental Security Income ("SSI") of D.G. of \$200, and "Disability Payments" for K.D. of \$200, with the line for Unemployment Insurance Benefits ("UIB") being left blank. See Exhibit R-10 at 6. Petitioner was approved for SNAP benefits and received a pro-rated amount for September, 2020, and thereafter, received the determined benefit allotment of \$64, plus the added amount of \$471 COVID-19 relief, for the maximum allotment for Petitioner's household size of \$535. See Initial Decision at 3; see also Exhibit R-9 at 5. The Initial Decision in this matter states that "[a]fter a routine income audit" Petitioner's income rose to \$3,795 effective January 1, 2021, and comprised of Petitioner's monthly UIB of \$1,031, D.G.'s monthly UIB income of \$706 and SSI benefits of \$298, and K.D.'s monthly UIB of \$1,1001, Retirement, Survivors and Disability Insurance ("RSDI") benefits of \$497 and SSI benefits of \$262. See Initial Decision at 3; see also Exhibits R-6, R-8. As a result, Petitioner's SNAP benefits were terminated effective January 1, 2021, for exceeding the maximum allowable gross income level for receipt of said benefits. *Ibid.* Based upon Petitioner's testimony, the ALJ in this matter found that Petitioner had purposely included her sons in her application for SNAP benefits as part of her household, and moreover, Petitioner did not deny or dispute the \$3,795 gross monthly household income or that it exceeded the maximum allowable income for receipt of SNAP benefits. *Id.* at 4-5. After acknowledging that when a SNAP household includes a disabled household member, only net income eligibility must be met, the Agency provided an amended calculation of Petitioner's SNAP benefits eligibility. See Initial Decision at 5; see also N.J.A.C. 10:87-6.16(b)(1). The Agency's amended calculations showed that Petitioner's SNAP net monthly income was \$3,628, well over the maximum allowable net income of \$1,810. See Initial Decision at 6, 7-8; see also Exhibit R-4 at 12. Based on the foregoing, the ALJ found that the Agency's termination of Petitioner's SNAP benefits was proper and must stand. See Initial Decision at 8. The ALJ further opined that Petitioner had received only a pro-rated SNAP benefit allotment for the month in which Petitioner had applied, and that she should have received the full benefit allotment for the household size, or \$509, and directed the Agency to provide Petitioner with the balance of the retroactive amount of \$480. *Ibid.*; see also DFD Instruction 19-09-01 at 11.

While I agree with the ALJ's conclusion, that the Agency's termination of Petitioner's SNAP benefits must be affirmed, based upon an independent review of the record, I disagree with the ALJ's order that Petitioner should receive the balance of the maximum household allotment for September, 2020, for the following reasons. It appears from the record that, at the time of Petitioner's SNAP benefits application on September 6, 2020, Petitioner and her adult sons were already receiving weekly UIB payments, in a total monthly amount that is the same as in January, 2021, and that K.D.'s and D.G.'s monthly SSI and RSDI amounts were only slightly less than the amounts in January, 2021. See Exhibit R-8. Moreover, it



is clear that none of the household's UIB income was reported on Petitioner's SNAP benefits application in September, 2020, despite having already been receiving UIB for several months prior to the submitted SNAP benefits application. Ibid. Based on the foregoing, I find that Petitioner is not entitled to the balance of the maximum SNAP benefit allotment for the month of September, 2020. Rather, as it appears from the record that Petitioner's household may not have been eligible for SNAP benefits at the time of application, this matter is remanded to the Agency to reevaluate Petitioner's eligibility at the time of application, based on the evidence presented in the DOVE reports for the household. See Exhibit R-8. If the Agency determines that Petitioner was incorrectly approved for SNAP benefits in September, 2020, based upon the omission of household unearned income, the Agency shall take appropriate action, in accordance with regulatory authority, on the overissuance of SNAP benefits. See N.J.A.C. 10:87-11.20(e)(2). If such action is taken, Petitioner may request another fair hearing on the overissuance issue alone. In the event that the Agency determines that Petitioner was, in fact, eligible for SNAP benefits in September, 2020, then balance of the maximum benefit allotment shall be issued. The Initial Decision is modified to reflect these findings.

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

Officially approved final version.

APR 15 2021

---

Natasha Johnson  
Assistant Commissioner

