



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

FINAL DECISION

OAL DKT. NO. HPW 03623-21 A.H.

AGENCY DKT. NO. C065577015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

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 Petitioner's household monthly income exceeds 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. On May 14, 2021, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. Petitioner was represented by counsel at the hearing, and did not appear. The record remained open to allow the parties to submit post-hearing briefs. On May 28, 2021, Petitioner filed a post-hearing brief. The Agency confirmed that it would not file a post-hearing brief, and the record closed on that day.

On June 7, 2021, the ALJ issued a very thorough and comprehensive Initial Decision, which found that the Agency had met its burden in establishing, by the preponderance of the credible evidence, that its decision to terminate Petitioner's SNAP benefits, due to earned income in excess of the eligibility level for a household of eight persons, was appropriate. See Initial Decision at 10.

Here, the record reflects that Petitioner was a SNAP benefits recipient. See Initial Decision at 2. The record further reflects that, Petitioner, and spouse, M.H., were employed as president and treasurer, respectively, of a company (hereafter, "Company"). Ibid. On October 2, 2020, the Agency, via an interoffice referral, became aware of allegations that Petitioner and M.H. owned, and were operating the Company, without reporting any business income. Id. at 3; see also Exhibit R-5 at 1. On October 7, 2020, Petitioner denied that he or M.H. owned the company, and that Petitioner's sibling, who had lived outside of the country, had owned the business. See Exhibit R-5 at 2. On or around February 18, 2021, the Agency, as part of an investigation, obtained via subpoena, six months of Petitioner's and A.H.'s personal and business records, as well as business records, including bank statements, from the Company. See Initial Decision at 3; see also Exhibits R-5 at 1, R-7, R-8. The Agency's investigation revealed, among other items, that from October, 2015, through October, 2020, Petitioner and M.H. deposited checks made out to the Company, into their personal accounts, that the signature card for the Company's bank account, showed only Petitioner's and M.H.'s signature, and that the



Company's business address was listed as Petitioner's home address. See Initial Decision at 3; see also Exhibits R-6, R-9. The Agency concluded that Petitioner had access to the Company's funds, even if Petitioner or A.H. did not own the business, and therefore, the profits of the business were attributed to Petitioner, for the purposes of calculating Petitioner's household income, in order to determine eligibility for SNAP benefits. See Initial Decision at 5; see also Exhibit R-5, and N.J.A.C. 10:87-5.4(a), -6.16. Accordingly, the Agency determined that, based upon its review of the documents received as part of its investigation, the gross monthly income attributable to Petitioner's household exceed the eligibility limit for household of Petitioner's size, and terminated Petitioner's SNAP benefits, effective April 1, 2021. See Initial Decision at 5; see also Exhibit R-1, N.J.A.C. 10:87-5-5(a), -6.16(b), -12.4, and Division of Family Development ("DFD") Instruction No. 20-09-04.

Petitioner contends that he and M.H. are employees of the Company, and the owner of the Company only provided them access to the Company's business bank account. See Initial Decision at 6. Petitioner further contends that his sibling owns the Company, and pays all taxes on the Company's income, and that the business income should not be attributed to Petitioner. *Id.* at 6, 7. Lastly, Petitioner argues that his position as a key employee with access to the Company's business bank accounts, does not disqualify him from SNAP benefits. *Id.* at 6.

The ALJ found, however, that frequent transfers of business funds into the personal accounts of Petitioner and M.H, the use of the Company's money by Petitioner and M.H. for personal reasons, and the mixing of business and personal funds, demonstrate that Petitioner and M.H. had dominion and control over the disposition of business funds. *Id.* at 9-10. The ALJ further found that Petitioner and M.H. could have taken steps to ensure that the Company's funds were kept separate and apart from their personal accounts, and because they neglected to do so, even if they are considered only employees, and not owners, of the Company, they control and have access to the Company's funds, and therefore, the income of the business is attributable to them for SNAP income eligibility purposes. *Id.* at 10.

Accordingly, the ALJ concluded that Petitioner's household income exceeded the maximum permissible level for receipt of SNAP benefits, and affirmed the Agency's determination to terminate Petitioner's SNAP benefits. *Ibid.*; see also Exhibit R-1, and N.J.A.C. 10:87-5.5(a), -6.16(b), 12.4. I agree.

No Exceptions to this Initial Decision were filed.

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

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

Officially approved final version.

JUL - 1 2021

Natasha Johnson
Assistant Commissioner

