



State of New Jersey

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Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 01107-21 C.A.

AGENCY DKT. NO. C147095015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner challenges the correctness of an overissuance of Supplemental Nutrition Assistance Program ("SNAP") benefits. Respondent Agency asserts that Petitioner received SNAP benefits to which he was not entitled as the result of an Agency Error, and that the overissuance must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. The matter was initially scheduled for a hearing on March 3, 2021, but was adjourned. On March 30, 2021, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents into evidence. The record was held open for Petitioner to submit any other pertinent information, including corroboration of the date he became ill. Petitioner did not submit any additional documentation, and the record then closed on April 14, 2021. On April 21, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, I hereby ADOPT the ALJ's Initial Decision and AFFIRM the Agency action.

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). 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 is caused by an action of the Agency itself, called an Agency Error ("AE"). N.J.A.C. 10:87-11.20(e)(3). Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner received an overissuance of SNAP benefits to which he was not entitled. See Initial Decision at 3, 5. Specifically, due to an AE, the Agency did not include Petitioner's spouse, L.A., and her earned income, in its calculation of Petitioner's SNAP benefits allotment amount,



which resulted in an overissuance of SNAP benefits to Petitioner in the amount of \$2,456, from June, 2019, through June, 2020. Id. at 3, 7; see also Exhibit R-8, and N.J.A.C. 10:87-5.2(a)(1), -5.5(a)(1), -9.5. Petitioner maintains that he and L.A. are separated, and that during the period of the alleged overpayment, L.A. only stayed with him for approximately three weeks. See Initial Decision at 3, 6. L.A. avers in a letter that Petitioner lives in her home, and pays half the mortgage and the electric bill. Ibid.; see also Exhibit R-4. The ALJ found that Petitioner and L.A. resided at the same address, and that there is no evidence of a legally binding separation agreement. See Initial Decision at 6, 7; see also Exhibit R-9.

Based on the record presented, the ALJ concluded that Petitioner was overissued SNAP benefits to which he was not entitled during the time period claimed, and as such, the Agency's demand to repay the overissuance, was appropriate. See Initial Decision at 7; see also Exhibit R-8, and N.J.A.C. 10:87-11.20(b), (e)(3). I agree.

Further, I find that an AE cannot result in a windfall to Petitioner, as receipt of an overissuance of SNAP benefits is money that Petitioner received, to which he was not entitled, and therefore, must be repaid. See Initial Decision at 7; see also N.J.A.C. 10:87-11.20(b). As such, I direct that the Agency proceed to recoup the overissuance.

I ORDER and direct that the Agency proceed to recoup the overissuance.

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

Officially approved final version.

MAY 11 2021

Natasha Johnson
Assistant Commissioner

