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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 10154-20 K.E.

AGENCY DKT. NO. C252707020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner SNAP benefits because Petitioner's income from Unemployment Insurance ("UI") benefits 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. On January 12, 2021, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. On February 24, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed electronically on March 8, 2021, by counsel for Petitioner.

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 and the Agency determination is AFFIRMED, based on the discussion below.

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. Further, N.J.A.C. 10:87-5.5(a)(2) specifically includes "unemployment compensation" as unearned income which to be included when determining a household's 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.

Under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), individuals receiving UI benefits, were entitled to also receive an additional \$600 per week, known as Federal Pandemic Unemployment Compensation ("FPUC"). See Pub. L. 116 – 136, section 2104(b)(1)(B). FPUC payments would end on or before July 31, 2020. *Id.* at 2104(e)(2). Like other UI benefits, FPUC



payments are included as unearned income when determining SNAP benefits eligibility. See DFDI Instruction ("DFDI") 21-02-05 at 3.

The record in this matter indicates that Petitioner applied for SNAP benefits on May 11, 2020. See Initial Decision at 2. During her telephone interview with the Agency on July 30, 2020, Petitioner advised that she had received her final FPUC payment of \$600 on July 26, 2020. *Ibid.* However, based upon the information it had in its possession, namely, the documentation from the New York Department of Labor, that Petitioner was receiving weekly UI benefits of \$504, and the weekly FPUC of \$600, the Agency issued an adverse action notice on August 25, 2020, denying Petitioner's application for SNAP benefits, effective August 13, 2020, due to Petitioner's income exceeding the permissible level for receipt of SNAP benefits. See Initial Decision at 2, 3; see also N.J.A.C. 10:87-6.16(d)(2), Exhibits P-4, P-5, and DFDI 19-09-01 at 13. Thereafter, on September 26, 2020, Petitioner reapplied for SNAP benefits, and was subsequently approved for same on November 4, 2020, with retroactive SNAP benefits awarded for September and October, 2020. See Initial Decision at 5. Thus, the issue remaining at this time is whether Petitioner should be deemed eligible for SNAP benefits for the month of August, 2020. See Initial Decision at 3.

While the SNAP regulations do speak to delays in processing, see N.J.A.C. 10:87-2.27, it is clear that the delays caused by the onset of the COVID-19 pandemic were not foreseeable and are clearly not those envisioned by the regulations. As a result of the onset of the pandemic, backlogs in the processing of SNAP applications, as well as welfare benefits applications in general, occurred as Agencies throughout this state had to resolve the challenges brought on by transitioning to working remotely, and with decreases in staff onsite at their regular office locations. Despite the delays in processing caused by the pandemic, those individuals found eligible to receive SNAP benefits were awarded said benefits retroactive to the date of their application, in accordance with regulatory authority, thus with no prejudice to the applicant. See N.J.A.C. 10:87-2.27(g)(1)(i).

Turning to the present matter, based on an independent review of the record, it is clear that Petitioner began receiving UI compensation through the State of New York effective March 16, 2020. See Exhibit P-12. It is also clear that, based upon Petitioner's receipt of weekly UI benefits of \$504, and weekly FPUC of \$600, Petitioner was over income for receipt of SNAP benefits during the months of May, June, and July, 2020, as her total gross income was \$4,784, and the maximum permissible gross income for SNAP benefits eligibility, for a household of three persons, was \$3,289. See Exhibits P-3, P-4, P-5, P-10 and P-12; see also DFDI 19-09-01 at 13, and DFDI 21-02-05 at 3. On this basis, I find that the Agency properly denied Petitioner's May 11, 2020, application for SNAP benefits on August 25, 2020, and effective August 13, 2020, and, but for the onset of the pandemic, that denial would have occurred at an earlier date. See Exhibit P-4; see also N.J.A.C. 10:87-2.27(g)(1). Thereafter, as a result of the denial of the May 11, 2020, application, in order to again be considered for SNAP benefits, Petitioner needed to submit a new application. The record in this matter shows that Petitioner then submitted a new application in late September, on September 26, 2020, a month and a day after the issuance of the Agency's denial of Petitioner's May 11, 2020, application. Furthermore, Petitioner was subsequently awarded benefits retroactive to the month of that subsequent application, September, 2020. See Initial Decision at 5. Based on the foregoing, I find that Petitioner was not eligible for SNAP benefits in August, 2020. The Initial Decision is modified to include the above finding.

The ALJ also concluded that the Agency's delay in processing Petitioner's SNAP benefits application, as well as Petitioner's omission in turning over full UI payment history until January 12, 2021, did not evidence "that the parties acted irresponsibly." See Initial Decision at 5. I also agree.

By way of comment, I have reviewed the Exceptions submitted on behalf of Petitioner, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED, as outlined above.



Officially approved final version.

MAR 11 2021

Natasha Johnson
Assistant Commissioner

