



State of New Jersey

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 02292-21 R.J.

AGENCY DKT. NO. C764606007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of Petitioner's Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's SNAP benefits because Petitioner's total household monthly unearned income exceeded the maximum permissible gross income level for receipt of said benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 5, 2021, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. On May 18, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination.

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 and the Agency determination is also MODIFIED, 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. 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).

In order to determine an applicant's eligibility for SNAP, the applicant's income and resources must be below a certain threshold. 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. N.J.A.C. 10:87-6.16(b) further outlines the procedures used to calculate both gross and net income for SNAP benefits purposes, and the applicable benefit



levels, if eligible. The regulation provides that the applicant's monthly net income is determined by adding together all earned and unearned income, then subtracting all income exclusions. Then, the standard deduction, based upon the size of the household, is subtracted from the income.

Thereafter, the household is evaluated to determine if a medical deduction is appropriate, which is if the household has medical expenses that exceed \$35.00. If the household is entitled to a medical deduction, then the amount in excess of \$35.00 is subtracted from the applicant's income. Then, the applicant is evaluated for an excess shelter deduction. Such a deduction is permitted when the individual's shelter costs exceed 50% of their net income. If this deduction is allowable, then the difference between the shelter costs and the 50% net income, or up to the maximum allowable amount, is subtracted from the individual's income. The remaining figure is Petitioner's net income for SNAP benefits purposes. This net income is then compared against the maximum allowable net income amount for the household's size, as outlined at N.J.A.C. 10:87-12.3, to determine eligibility. If eligible, the household's monthly SNAP allotment shall be equal to the maximum food stamp allotment for the household's size, reduced by 30 percent of the household's net monthly income. See N.J.A.C. 10:87-12.6(a)(1).

In the present matter, the ALJ opines that the sole question on appeal is whether or not Petitioner was given the proper shelter costs in the calculation of her benefits. See Initial Decision at 2. It should be noted that while actual shelter costs, i.e. rent and/or mortgage payments, are used in the SNAP eligibility determination, New Jersey uses a set amount for utility costs, rather than actual utility costs. See Exhibit P-3 ("Some states allow a set amount for utility costs instead of actual costs."); see also DFDI Instruction ("DFDI") 14-07-04. That set amount for utility costs, when a SNAP benefits applicant pays for heating or cooling expenses, separate from the rent/mortgage, is the Heating & Cooling Standard Utility Deduction ("HCSUA") and is the highest utility allowance given. See DFDI 14-07-04; see also DFDI 20-09-04 at 11. For households that do not incur separate heating or cooling expenses, but pay two separate utilities, such as telephone, water, sewer, etc., that household is entitled to the Limited Utility Expense ("LUA"), and for households with no other utility expense except a telephone charge, the Uniform Telephone Allowance ("UTA") is given. *Ibid.* In determining SNAP benefits eligibility, only one of the above utility allowances is given, not all three, and the amounts for each utility allowance is updated annually on October 1st. An independent review of the record shows that Petitioner was, in fact, given the current set utility amount for the HCSUA of \$548. See Exhibits R-3 at 11, R-4. Further, the record reflects that Petitioner's regular monthly mortgage payment, including taxes, is \$2,305.99. See Exhibit P-5. It appears, however, that the Agency utilized a slightly higher amount of \$2,351 for Petitioner's shelter/mortgage costs, and that amount will be used in the analysis below. See Exhibit R-4. Additionally, the applicable regulatory authority pertaining to calculation of the excess shelter deduction, as shall be outlined in detail below, is N.J.A.C. 10:87-6.16(b)(8).

Moving to the calculations to determine the household's SNAP eligibility, as Petitioner's household includes a disabled household member, only the net income test for eligibility must be met. See N.J.A.C. 10:87-6.16(b)(1). For a household of two persons, such as Petitioner's, the maximum allowable net income level for said household size is \$1,437. See DFDI 20-09-04 at 12. The record further reflects that Petitioner receives \$2,077 in monthly Retirement, Survivors and Disability Insurance ("RSDI") and Petitioner's child receives \$1,038 in monthly RSDI benefits for a household total of \$3,115 in unearned income. See Exhibits R-1, R-4, R-5. The record is devoid of any indication of any earned income in the household. After subtracting the correct standard deduction for a household of two of \$167, from the monthly unearned income total of \$3,115, Petitioner's household income is reduced to \$2,948. See N.J.A.C. 10:87-6.16(b)(4); see also DFDI 20-09-04 at 11. There is no indication that Petitioner has any medical expenses which exceed \$35. See N.J.A.C. 10:87-6.16(b)(5). Next is to determine if Petitioner receives a shelter deduction and if so, how much. Petitioner's total shelter costs are Petitioner's monthly mortgage payment, as discussed above, is \$2,351, plus the HCSUA of \$548, for total shelter costs of \$2,899. See N.J.A.C. 10:87-6.16(b)(8); see also DFDI 20-09-04 at 11. Subtracted from the total shelter



costs, \$2,899, is 50% of Petitioner's net monthly income after the above deductions, or half of \$2,948, which is \$1,474, resulting in an excess shelter deduction of \$1,425 (\$2,899 - \$1,474). See N.J.A.C. 10:87-6.16(b)(8). As Petitioner has a disabled household member, there is no cap on the excess shelter deduction. See N.J.A.C. 10:87-6.16(b)(9). Accordingly, Petitioner's total net monthly SNAP income is calculated as $\$3,115 - 167 - \$1,425 = \$1,523$. Ibid. That amount is then compared to maximum allowable net income chart, which reflects that the maximum allowable net income for a household of two is \$1,437. See DFDI 20-09-04 at 12; see also N.J.A.C. 10:87-6.16(d)(2). As Petitioner's net monthly SNAP income is more than the maximum allowable, Petitioner is not eligible for SNAP benefits. Based on the foregoing, and the record presented, I find that the Agency correctly calculated the excess shelter deduction in this matter, and furthermore, I find that the Agency correctly terminated Petitioner's SNAP benefits. See Exhibits R-2, R-4. However, as the above analysis shows, Petitioner did not meet the net income eligibility level, rather than the gross income eligibility level, as stated in the Agency's adverse action notice of January 29, 2021. See Exhibit R-1. Therefore, both the Initial Decision and the Agency's adverse action are modified, to include the above analysis and findings.

Accordingly, the Initial Decision in this matter is hereby MODIFIED and the Agency's determination is also MODIFIED, as outlined above.

Officially approved final version. JUN 24 2021

Natasha Johnson
Assistant Commissioner

