



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 02270-21 R.N.

AGENCY DKT. NO. C171966015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner's application for SNAP benefits contending that Petitioner's countable household 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. On May 7, 2021, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. The record remained open for post-hearing submissions, and upon receipt of same, the record then closed on May 14, 2021. On June 17, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were received from Petitioner on June 15, 2021.

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.

N.J.A.C. 10:87-5.9(a)(2)(iv), states, in pertinent part, "Moneys which are legally obligated and otherwise payable to the household but which are diverted by the provider of the payment to a third party for a household expense shall be counted as income and not excluded as a vendor payment. The distinction is whether or not the person or organization making the payment on behalf of the household is using the funds which otherwise would have to be paid to the household."

In accordance with N.J.A.C. 10:87-6.16(d)(2), in determining SNAP benefits eligibility, 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.



Gross income is determined by adding together the household's monthly earned and unearned income, minus any earned income exclusions. See N.J.A.C. 10:87-6.16(b), (b)(1). That total gross income amount is then utilized to determine a household's SNAP eligibility in accordance with N.J.A.C. 10:87-6.16(d)(1) and (2). The maximum gross income for a household of six persons, such as Petitioner's, is \$5,421. See DFD Instruction ("DFDI") 20-09-04 at 13.

Here, the primary contested issue was the diversion of Petitioner's HUD payment of \$1312, and a contribution of \$738.47 from a family member towards Petitioner's mortgage, to a management company, who then submits the full mortgage payment to the bank holding the mortgage. See Initial Decision at 2-3. The record further reflects that prior to this arrangement, which began in January, 2021, Petitioner paid the mortgage using the family's checking account. *Id.* at 3; see also Exhibit R-4. While Petitioner asserted that the payments to the management company constituted vendor payments, and therefore should be excluded as income to the household, the ALJ found that the arrangement, began in January, 2021, was a diversion of the funds, and as such, must be included as income to the household. See Initial Decision at 7; see also N.J.A.C. 10:87-5.9(a)(2)(iv). I agree.

With the inclusion of the diverted funds in the calculations to determine eligibility, it is clear that the household's income exceeds the maximum gross income level of \$5,421 for SNAP eligibility. See Exhibit R-2; see also DFDI 20-09-04 at 13. Based upon an independent review of the record, the diverted funds of \$1312 and \$738.47, total \$2050.47. See Exhibits R-4 and R-6. It appears that a lump sum donation of \$3000, see Exhibit R-8, was budgeted to a monthly amount of \$250, and when added to mortgage contributions of \$2050, equals \$2300, which is reflected category of "Contributions" on the calculations page. See Exhibit R-2. The "other income" category on the calculations page shows an amount of \$387, which is the monthly budgeted amount of a weekly scholarship received by the household, $\$86 \times 4.333 = \372.64 , and a budgeted monthly amount of \$14.33 as the result a one-time payment of \$172, or \$386.97 total. See Exhibit R-9 at 5. Added to that amount is Petitioner's monthly earned income, which was calculated to be \$3,333. See Exhibits R-2, R-9. Adding the earned income, to the unearned income from contributions, $\$3333 + \$2300 + \$387$ results in a household gross income of \$6,020. See Exhibit R-2. This amount, in and of itself, is above the permissible maximum gross income for receipt of SNAP benefits for Petitioner's household size, \$5,421, and therefore, Petitioner's household is not eligible for SNAP benefits. See DFDI 20-09-04 at 13. Based on the foregoing, I agree with the ALJ's final conclusion in this matter that the Agency correctly denied Petitioner SNAP benefits. I do note that it appears that several other monthly contributions to the household may have not been included in the Agency's calculations, more specifically, \$461.53, \$300, and \$300. See Exhibits R-6, R-7 and R-8. However, as outlined above, even without the inclusion of these other monthly contributions, the household is clearly ineligible to receive SNAP benefits. The Initial Decision is modified to include the above analysis and findings.

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

Officially approved final version.

JUL 13 2021

Natasha Johnson
Assistant Commissioner

