



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 00219-21 S.A.

AGENCY DKT. NO. C084029012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner challenges the correctness of the Respondent Agency's claim for recovery of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF"), and Supplemental Nutrition Assistance Program ("SNAP"), benefits. The Agency asserts that Petitioner's household received SNAP and WFNJ/TANF benefits to which it was not entitled, resulting in overissuances of benefits which must be recouped. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. The matter was initially scheduled for a telephonic plenary hearing on February 16, 2021, but was adjourned at Petitioner's request, to allow Petitioner, who spoke Arabic, and did not speak English, to obtain an attorney. On the second hearing date of April 16, 2021, Petitioner advised that he had communicated with an attorney, and the attorney required more time to evaluate the case. Based upon this representation, the hearing was rescheduled to May 11, 2021. On that date, the hearing was adjourned again because the interpreter was ill. However, because Petitioner was not represented by counsel, and in order to ensure that he understood the issues and exhibits, and to facilitate an efficient hearing, Respondent was asked to provide to Petitioner, a written summary of the basis for its determination. Respondent provided the statement in English and in Arabic. At the next hearing date of June 8, 2021, the Honorable David M. Fritch, Administrative Law Judge presided over the hearing, as the Honorable Judith Lieberman, Administrative Law Judge, ("ALJ"), was unavailable, due to an emergency. Judge Fritch presided over the hearing, but Petitioner was unable to continue through the end of the hearing. Accordingly, the hearing was adjourned to July 13, 2021. On that hearing date, ALJ Lieberman took testimony from both parties during the telephonic plenary hearing. After 45 minutes, Petitioner stopped communicating. Petitioner was asked to participate several times, and the telephone conference call function was utilized to determine that Petitioner was no longer connected to the conference call. After the Respondent continued to present and complete its case, another effort was made to confirm whether Petitioner was available. Petitioner replied and stated that he had remained on the conference call line during the entire hearing. Petitioner claimed that the interpreter was translating using the Egyptian language, not Arabic, after which, Petitioner addressed the ALJ in English. After a voir dire concerning Petitioner's ability to understand English, it was determined that he was able to do so. Petitioner confirmed that he understood the questions and statements made by the ALJ, and that he understood statements made by others participating in the hearing. Both parties



provided full testimony, and responded to questions, and the record then closed that day. On July 26, 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 reviewed the record in this matter and I hereby ADOPT the Initial Decision, and AFFIRM the Agency determination, based on the discussion below.

In the instance of an overpayment of SNAP benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. A type of overpayment which is subject to recoupment is one which results from "a misunderstanding or unintended error on the part of the household receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2).

Similarly, under the WFNJ regulations, a recipient is required to satisfy any repayment obligation pursuant to state or Federal law governing public assistance. See N.J.A.C. 10:90-2.2(a)(7). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction[.]" See N.J.A.C. 10:90-3.21(a)(1).

Here, the record reflects that on July 12, 2013, Petitioner and his spouse, D.S., applied for WFNJ/TANF and SNAP benefits. See Initial Decision at 2; see also Exhibit R-14. Petitioner and D.S. reported no earned income. *Id.* at 2-3; see also Exhibit R-14 at 7. In May, 2014, and November, 2014, Petitioner and D.S. signed, respectively, a redetermination application for WFNJ/TANF and SNAP benefits, and an Interim Reporting Form ("IRF"), and on both occasions, reported no household earned income. See Initial Decision at 4; see also Exhibits R-7, R-8. On May 13, 2015, Petitioner and D.S. signed another redetermination application for WFNJ/TANF and SNAP benefits, and reported that Petitioner had been employed since 2014. See Initial Decision at 4; see also Exhibits R-5, R-6. Based upon the May 13, 2015, redetermination application, and Petitioner's 2014 Income Tax return, included with the redetermination application, the Agency determined that since January, 2014, Petitioner and D.S.'s net monthly household earned income totaled \$988. See Initial Decision at 4; see also Exhibits R-5, R-15.

The ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner had received an overissuance of WFNJ/TANF and SNAP benefits to which he was not entitled. See Initial Decision at 6, 8. Specifically, the ALJ found that Petitioner failed to report earned income, and as a result, received an overissuance of SNAP benefits in the amount of \$7,464, and an overissuance of WFNJ/TANF benefits in the amount of \$3,218, for the period beginning June, 2014, through June, 2015, which must be repaid. See Initial Decision at 5, 6, 8; see also Exhibit R-3, and N.J.A.C. 10:87-5.4(a)(1), and N.J.A.C. 10:90-3.9(c). I agree.

Based on the foregoing, I ORDER and direct the Agency to proceed to recoup the overissuances.

By way of comment, the record indicates that D.S. is currently repaying the SNAP overissuance by way of an allotment reduction. See Initial Decision at 5. Additionally, D.S. is repaying the WFNJ/TANF overissuance by way of restitution. *Ibid.* The Respondent Agency initiated this action against Petitioner because he and D.S. are jointly responsible for the overpayments. See N.J.A.C. 10:87-11.20(d)(1).

By way of further comment, in accordance with applicable regulatory authority, in cases involving SNAP benefits, a fair hearing, Initial Decision, and Final Decision are all to be completed within 60 days from the receipt of an individual's request for a fair hearing. See 7 C.F.R. § 273.15(c)(1). Additionally, it should be noted that only one adjournment of no more than 30 days is permitted in SNAP cases. See N.J.A.C. 1:10-9.1(a), (b), N.J.A.C. 10:87-8.6(a)(4)(i) and 7 C.F.R. 273.15(c)(4).

