



State of New Jersey

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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 04387-21 Z.B.

AGENCY DKT. NO. C043546019 (SUSSEX COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP") benefits recoupment, due to an overissuance. The Agency asserts that Petitioner received SNAP benefits, to which he was not entitled, as the result of a failure to accurately report his household composition. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 22, 2021, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed. On June 24, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed by either party.

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.

Every SNAP application shall be made on behalf of a household. See N.J.A.C. 10:87-2.1. It is critically important to determine exactly who comprises the SNAP household, since all considerations of eligibility will follow from this initial determination. *Ibid.*

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 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). 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 record reflects that, on November 14, 2017, Petitioner filed an application for SNAP benefits. See Initial Decision at 2. Petitioner indicated that he lived with a friend, G.B., that he paid no rent, and that he was disabled. *Ibid.* On or around September 30, 2019, the Agency became aware that G.B. was Petitioner's ex-wife, and that she and U.B., their 17 year-old child, were living



with Petitioner. Id. at 3; see also Exhibit R-1 at 6. Thereafter, pursuant to an Agency investigation regarding whether Petitioner had included all family members to his SNAP benefits application, the Agency discovered that Petitioner failed to report earned income. See Initial Decision at 3; see also Exhibit R-1 at 6, 80-81. The investigation further revealed that Petitioner did not report unearned income, specifically, Unemployment Insurance Benefits ("UIB"), received for the period beginning June, 2019, through August, 2019. See Initial Decision at 3; see also Exhibit R-1 at 79.

Petitioner and G.B. testified that they were divorced, and that the property where they resided belonged solely to G.B., per their Property Settlement Agreement. See Initial Decision at 3; see also Exhibit R-1 at 74-77. G.B. testified further that she filed her income tax returns separate from Petitioner, and that she and U.B. prepared meals and ate separate from Petitioner. See Initial Decision at 3; see also Exhibit R-1 at 13. G.B. also testified that she does not charge Petitioner rent, or for the cost of utilities or insurance, and that she only charges Petitioner for heat. See Initial Decision at 4. The ALJ found that Petitioner and G.B., function as a couple, and that the sharing of expenses, such as housing costs, utilities, transportation, and the likely sharing of food, demonstrates that they are a single household. See Initial Decision at 7-8; see also N.J.A.C. 10:87-2.2(a)(2), and N.J.A.C. 10:90-15.1. The ALJ further found that Petitioner cannot claim to be his own separate household, because he resides in a residence wherein his minor child is residing. See Initial Decision at 4; see also N.J.A.C. 10:87-2.2(c) (1).

Based on the evidence presented, the ALJ concluded that Petitioner's and G.B.'s incomes must be considered together for the purpose of ascertaining eligibility for SNAP benefits, and that Petitioner was required to, but did not, include G.B.'s income in his application for SNAP benefits. See Initial Decision at 8; see also Exhibit R-1 at 14-15, and N.J.A.C. 10:87-5.2(a)(1). The ALJ further concluded that, from November, 2017, through October, 2019, SNAP benefits, in the amount of \$4,565, were improperly issued to Petitioner, to which he was not entitled, and which must be repaid. See Initial Decision at 9; see also Exhibit R-1 at 1-5, and N.J.A.C. 10:87-2.2, -2.14, -11.20. I agree. The ALJ also concluded that it is the responsibility of Petitioner and G.B. to repay the overissuance. See Initial Decision at 9; see also N.J.A.C. 10:87-11.20(d)(1). I also agree.

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

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

Officially approved final version.

JUL - 8 2021

Natasha Johnson
Assistant Commissioner

