



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

SHEILA Y. OLIVER
Lt. Governor

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 **03623-23 E.C.**

AGENCY DKT. NO. **C116970007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner's 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 22, 2023, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. On June 26, 2023, 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, the Agency's determination is REVERSED, and the matter is REMANDED back to the Agency, 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.

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(d)(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.

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).

It should be noted that the transmittal in this matter reflects that Petitioner, in the present matter, is appealing the February 3, 2023, denial of SNAP benefits due to excess gross income. Petitioner in this case asserts that Kinship benefits, in a total monthly amount of \$500, had not been previously included as unearned income for SNAP benefits eligibility purposes and should continue to be excluded. See Initial Decision at 2. However, I hereby take official notice that the records of this Agency show that this assertion, that the Kinship monies were previously excluded from unearned income for SNAP benefits eligibility purposes, is incorrect and misplaced. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b) (4). Rather, Kinship monies had previously been included as household unearned income, due to the fact that the minor aged children were included and counted as household members for SNAP eligibility purposes. See N.J.A.C. 10:87-5.3; see also DFDI Instruction ("DFDI") 09-02-05 at 9 (stating that "Kinship subsidy benefits count as unearned income when determining Food Stamp Program eligibility."). It should be noted that, had the minor children not been included and counted as members of the household, then the kinship monies would be excluded. See N.J.A.C. 10:87-5.9(a)(11)(ii). Additionally, while the records of this office also show that the household's earned income is fairly recent in nature, the February 3, 2023, notice itself shows that, unlike in prior notices, where the Kinship funds were counted as unearned income just once, the Kinship monies in the February 3, 2023, notice are being counted twice in the eligibility calculation, once specifically designated as "kinship" benefits, and a second \$500 being shown as "other." There is nothing in the record to support a second unearned income amount of \$500, and it appears to have been erroneously designated and counted twice, thus resulting in the household's gross income exceeding the maximum allowable gross income amount, for a household of three persons, of \$3,551. See DFDI 22-09-02 at 14. Based on the foregoing, I find that the Agency's February 3, 2023, denial of SNAP benefits to Petitioner was improper and must be reversed, and therefore, I am remanding this matter back to the Agency. The Agency shall expedite the substantive evaluation of Petitioner's January 31, 2023, application for SNAP benefits, together with all submitted documentation, and the monthly \$500 kinship monies shall be counted only once in the eligibility calculation. Based on that evaluation, if Petitioner is determined to be eligible for SNAP benefits, Petitioner is to then be provided with retroactive SNAP benefits to January 31, 2023, the date of application, and prospectively, as applicable, given that it does now appear that Petitioner is again receiving SNAP benefits. See N.J.A.C. 10:87-8.18; see also Exhibit R-1. The Initial Decision is modified to reflect these findings.

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

Officially approved final version.

August 15, 2023

Natasha Johnson

Assistant Commissioner

