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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **07813-22 G.P.**

AGENCY DKT. NO. **C077186001 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)**

Petitioner challenges the correctness of the Respondent Agency's calculations of Supplemental Nutrition Assistance Program ("SNAP") benefits. Petitioner contends that, due to the Agency's incorrect application of his shelter costs, he was not issued the additional emergency pandemic allotments of \$95 to which he asserts he is entitled. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 12, 2022, the Honorable Catherine A. Tuohy, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On October 21, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination and ordering that Agency issue Petitioner the \$95 emergency allotments for May, June, and July 2022.

No Exceptions to the Initial Decision were filed.

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 REVERSED, based on the discussion below.

Guidance issued by DFD with respect to the SNAP emergency allotments, and examples provided, is illustrative on the issue in this matter: "Effective April 1, 2021, all NJ SNAP households receive a \$95 minimum supplemental emergency allotment for their household size. If the difference between a household's regular allotment (with no proration and without any claim reduction) and the maximum NJ SNAP allotment for the household size is greater than \$95, then the household receives a supplemental emergency allotment equal to that difference." See DFDI Instruction ("DFDI") 21-07-01 at 8-9, and DFDI 22-07-02 at 8. Examples given for illustrative purposes, in DFDI 22-07-02, are as follows:

Example [#1]: A one person household whose normal benefit calculation is \$215, will be issued a supplemental emergency allotment of \$95, because the difference between their allotment and maximum benefit allotment (\$250) is less than \$95.



Example [#2]: A one person household whose normal benefit is \$100 will be issued a supplemental emergency allotment of \$150, because the difference between their allotment and the maximum benefit allotment is more than \$95.

See DFDI 22-07-02 at 8.

Additionally, while all SNAP benefits households are continuing to receive the SNAP emergency allotments, in addition to their actual eligible allotment amount, it should be noted that such will not continue indefinitely, and will continue only on a month-to-month basis until such time as Federal approval of the allotments ceases. Ibid.

In order to determine an applicant's eligibility for SNAP, the applicant's income and resources must be below a certain threshold. 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).

An independent review of the record in this matter reflects that, due to an Agency error, an incorrect shelter amount was utilized in calculating Petitioner's SNAP benefit amount. See Initial Decision at 3-5; see also Exhibit R-1 at 5. This error is also asserted to have been the basis for Petitioner not receiving the \$95 emergency allotment for May, and June, 2022, as he had previously. See Exhibit R-1 at 34. The record shows that Petitioner was later issued, in June, 2022, \$500 for two months (presumably for May and June, 2022) of the maximum SNAP allotment for a household of one person, or \$250. Ibid. Thereafter, in July, August, and September, 2022, Petitioner received a SNAP allotment of \$145, and a supplemental emergency allotment of \$105. Ibid.; see also DFDI 21-07-01 at 9 (stating that emergency allotments are shown with a "Z" code in the payment history (see Exhibit R-1 at 34-35)). The SNAP allotment of \$145 was calculated using the incorrect shelter expense of \$110, rather than the correct monthly shelter amount of \$477. See Initial Decision at 3-5; see also Exhibit R-1 at 1, 4-5. It is clear that the incorrect application of the incorrect rental expense, is not the fault of Petitioner, and while the Agency's efforts to obtain the necessary shelter verification in July, 2022, is laudable, it is clear that Petitioner did not receive the full SNAP benefit allotment, and attendant supplemental emergency allotments, to which he was actually entitled. Further, verification of the rental costs for two weeks in May, 2022, have since been provided and are part of the record in this matter. See Exhibit P-1. Based on the foregoing, I find that Petitioner was issued only a combined total SNAP benefits allotment, plus supplemental emergency allotment, of \$250, for May, 2022, through September, 2022. See Exhibit R-1 at 34. This is, in part, comparable to Example #2, above, as the Agency failed to apply the correct



shelter expense in its SNAP benefits calculations, thus resulting in a lesser monthly SNAP allotment of \$145, and an emergency SNAP allotment of \$105, for a total of \$250. See Exhibit R-1 at 1, 34.

I further find that, had the correct rental expense been utilized at the time of Petitioner's recertification, his monthly SNAP benefit allotment would have clearly been more, noting that the numbers used in his benefits calculation in the last months of his prior certification period, did not change much into the current certification period. See Exhibit R-1 at 4-5. In the months just prior to, and including, April, 2022, Petitioner's SNAP benefits allotment was \$242, and had the correct shelter expense been utilized at the time of his recertification, his SNAP benefit allotment beginning in May, 2022, to September, 2022, would have been similar, and thus he would have received not only more in his monthly SNAP benefits allotment, but he would also have received the \$95 emergency allotment. See Exhibit R-1 at 34-35. As the record demonstrates, in the several months leading up to his recertification, Petitioner received a SNAP benefit allotment of \$242, plus the \$95 emergency allotment, for a monthly total of \$337, which is comparable to the scenario laid out in Example #1 above (showing that when the difference between the actual monthly benefit allotment and the maximum benefit allotment (in this case \$250) is less than \$95, the household receives the \$95 emergency allotment amount). Ibid.

Therefore, as I find that verification of his rent at the time of recertification in May, 2022, has been provided, Petitioner's SNAP benefits allotment in May, 2022, can be calculated as follows. The record in this matter reflects that Petitioner's household consists solely of himself, and that the household's monthly gross income totals \$872, comprised of Petitioner's Supplemental Security Income ("SSI") benefits. See Exhibit R-1 at 4, 24; see also N.J.A.C. 10:87-5.5(a)(2) and -6.16(b)(3). The household has no net monthly earned income. See N.J.A.C. 10:87-6.16(b)(2). After subtracting the standard deduction of \$177 for a household of one, and no excess medical deduction, Petitioner's income is reduced to \$695. See N.J.A.C. 10:87-6.16(b)(4), (5); see also DFDI 21-09-01 at 13. Next, is to determine if Petitioner receives a shelter deduction and if so, how much. Petitioner's shelter costs total \$477, plus the Heating and Cooling Standard Utility Allowance ("HCSUA") of \$583, which equals \$1060.00. See N.J.A.C. 10:87-6.16(b)(8); see also DFDI 21-09-01 at 13. Subtracted from that amount is 50% of Petitioner's net income after the above deductions, or half of \$695.00, which is \$347.50, (1060 - 347.50), resulting in the amount of \$712.50. See N.J.A.C. 10:87-6.16(b)(8). While this amount exceeds the maximum excess shelter deduction of \$597, because the household contains a disabled individual, the full amount of \$712.50 is used as the excess shelter deduction. See N.J.A.C. 10:87-6.16(b)(9); see also DFDI 21-09-01 at 13. This amount is then subtracted from Petitioner's income minus the deductions (($\$872 - \177) - $\$712.50$), resulting in a net monthly SNAP income of \$17.50. Ibid. That amount is then multiplied by .3 and rounded up, or \$6. See N.J.A.C. 10:87-12.6(a)(1)(i)-(ii). That amount is then subtracted from the maximum benefit for a household of one, \$250 - \$6, or \$244. See N.J.A.C. 10:87-12.6(a)(1)(iii); see also 21-09-01 at 13. As the difference between that correct recalculated monthly SNAP benefits amount, \$244, and the maximum benefit allotment, \$250, is less than \$95, I find that Petitioner is also eligible for the \$95 supplemental emergency allotment for the months of May, 2022, through September, 2022. See N.J.A.C. 10:87-6.16. As such, Petitioner is to be issued the difference between the newly calculated benefits amount, \$244, plus the \$95 supplemental emergency allotment, totaling \$339, and what he actually received for those five months, \$250, or $\$339 - \$250 = \$89 \times 5$ months, for a total of \$445. See N.J.A.C. 10:87-8.18; see also Exhibit R-1 at 34. The Initial Decision is modified to reflect the above findings and analysis.

By way of comment, it appears from the record that Petitioner may have a substantial amount of SNAP benefits which have not been used. Petitioner is advised that, in accordance with recent changes, any "inactive account," meaning an account where the household has not taken any action to affect the balance of the account, such as a purchase, or return, shall have all benefits nine (9) months order, or older, automatically expunged. See DFDI 22-09-01. Petitioner should be guided accordingly.

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



Officially approved final version.

January 05, 2023

Natasha Johnson

Assistant Commissioner

