



State of New Jersey

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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 **01883-21 J.S.**

AGENCY DKT. NO. **S454478014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)**

Petitioner challenges the correctness of an overissuance of Supplemental Nutrition Assistance Program ("SNAP") benefits. Respondent Agency asserts that for the periods beginning January, 2019, through April, 2019, and June, 2019, through September, 2019, Petitioner received SNAP benefits to which she was not entitled, and which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 4, 2021, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents into evidence, and the record then closed. On November 28, 2022, the ALJ issued an Initial Decision affirming the Agency's determination to recoup the entire overissuance of SNAP benefits issued to Petitioner, ordering the Agency to exercise its legal authority to compromise the amount of the claim, and concluding that it would constitute a financial hardship for Petitioner to repay the amount in three years or less, if the amount owed to the Agency was not reduced.

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, I hereby MODIFY the ALJ's Initial Decision, MODIFY the Agency's determination, and REMAND to the Agency, based on the discussion below.

SNAP is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households. See N.J.A.C. 10:87-1.1(a). 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 "an action or failure to take action by the [Agency]," called an "Agency Error" ("AE"). See N.J.A.C. 10:87-11.20(e)(3). Repayment of overissuances may be sought for amounts going back six years prior to the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner received an overissuance of SNAP benefits to which she was not



entitled. See Initial Decision at 3, 4, 5. The ALJ further found that, as the result of an AE, the Agency miscalculated Petitioner's household income, specifically, by failing to include income from child support payments received by Petitioner, which she did report, but were not considered by the Agency when evaluating Petitioner's eligibility for SNAP benefits, which resulted in an overissuance of SNAP benefits to Petitioner in the amount of \$3,542, for the periods beginning January, 2019, through April, 2019, and June, 2019, through September, 2019. Id. at 2, 3; see also Exhibits R-1, R-2, R-3, R-4, and N.J.A.C. 10:87-5.5(a)(5), -9.5. Accordingly, the ALJ concluded that Petitioner was overissued SNAP benefits to which she was not entitled during the time period claimed, and as such, the Agency is entitled to recoup, and Petitioner must repay, the overissuance of SNAP benefits to which she was not eligible to receive. See Initial Decision at 5; see also N.J.A.C. 10:87-11.20(b), (e)(2). I agree.

The ALJ further concluded that it would constitute a hardship for Petitioner to repay the full amount of \$3,542, and found that Petitioner is entitled to hardship consideration after supplying updated financial information to the Agency, which, if she satisfies the requirements, can be reduced to a minimum payment of \$25 per month. See Initial Decision at 4, 5.

While I agree that the Agency is entitled to recoup the overissuance of SNAP benefits, pursuant to regulatory authority, the Agency may only compromise Petitioner's claim, or any portion of Petitioner's claim, if it can reasonably determine that Petitioner's household's economic circumstances dictate that the claim will not be paid in three years. See N.J.A.C. 10:87-11.20(m); see also 7 C.F.R. 273.18(e) (7). Additionally, the Agency may compromise a portion of Petitioner's claim, but only if Petitioner meets the financial criteria, namely, if her current household monthly gross income is less than 200 percent of the Federal Poverty Level. See DFD Claims Management Plan, p. 10 (revised October, 2021).

Accordingly, I am remanding this matter back to the Agency with the following instructions. The Agency shall consider whether Petitioner's claim is eligible for a compromise. Thereafter, the Agency shall provide a Notice Regarding Eligibility for Compromise of SNAP Claim (NJ SNAP-909) form to Petitioner. In determining Petitioner's eligibility for a claim compromise, the Agency shall refer to all applicable regulatory authority, and the DFD Claims Management Plan. Upon the Agency's request, Petitioner shall promptly provide to the Agency, all current household financial information, including, but not limited to, the household's current monthly gross income. The Initial Decision and the Agency determination are both modified to reflect these findings.

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

By way of 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). With this time frame in mind, it should also be noted that Initial Decisions in SNAP cases are to be issued within 14 days from the date of the hearing before the ALJ. See N.J.A.C. 1:10-18.1(b).

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

Officially approved final version.

January 26, 2023

Natasha Johnson
Assistant Commissioner

