



## State of New Jersey

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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 **10957-22 N.S.**

AGENCY DKT. NO. **C137954009 (HUDSON COUNTY DEPT OF FAM SVCS)**

Petitioner appeals from the Respondent Agency's termination and closure of her Supplemental Nutritional Assistance Program ("SNAP") benefits case. The Agency terminated, and then closed, Petitioner's SNAP benefits case because Petitioner's certification period had ended and no required interview, necessary for the continuation of SNAP benefits, beyond the certification end date, had occurred. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 2, 2023, the Honorable Kelly J. Kirk, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On February 6, 2023, the ALJ issued an Initial Decision, reversing the Agency's termination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND this matter to the Agency, based on the discussion below.

In order to determine eligibility for SNAP benefits, mandatory verification of certain information is required, such as household income, both earned and unearned income. See N.J.A.C. 10:87-2.19, -2.20.

N.J.A.C. 10:87-6.3(b) states, "If an application for recertification is submitted after the household's certification period has expired, that application shall be considered an initial application and benefits for that month shall be prorated in accordance with N.J.A.C. 10:87-6.2(c)."

N.J.A.C. 10:87-9.1 states, "No household may participate [in SNAP] beyond the expiration of the certification period assigned in accordance with N.J.A.C. 10:87-6.20 without a determination of eligibility for a new period. Households shall apply for recertification and shall comply with interview and verification requirements." A Notice of Expiration is to be sent to a SNAP household before the first day of the last month of the household's certification period, but no earlier than the first day of the



next to last month of the certification period. See N.J.A.C. 10:87-9.1(b). The Notice of Expiration shall include, amongst other things, the date of certification period is ending, the date by which an application for recertification must be submitted, and the consequences of failing to apply for recertification in a timely manner. See N.J.A.C. 10:87-9.1(c)(1) – (3). Additionally, in order to expedite the recertification process, Agencies are encouraged to send a recertification application, and an interview appointment letter along with the Notice of Expiration. See N.J.A.C. 10:87-9.1(d).

Based on an independent review of the record, it appears that Petitioner was receiving SNAP benefits in July, 2022. See Initial Decision at 2; see also Exhibit R-1. I hereby take official notice that the records of this office show that Petitioner was, in fact, sent a Notice of Expiration of SNAP benefits on June 1, 2022, advising that her SNAP certification period would expire at the end of July, 2022, and further advising her of a telephone interview, necessary to determine continued SNAP benefits eligibility, on July 8, 2022. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). The records of this office further reflect that when the Agency was unable to reach Petitioner, at the number in the Agency’s database, a Notice of Missed Interview was sent to Petitioner on July 8, 2022, directing that Petitioner must contact the Agency to reschedule the required interview, and advising, “[y]ou must be interviewed if you want to receive NJ SNAP benefits. If you do not complete an interview your NJ SNAP case will be denied (or closed if you are currently receiving benefits).”. Ibid. Thereafter, when the Agency then reached out to Petitioner in September, 2022, and was unable to reach her, a denial notice was sent to Petitioner on September 15, 2022, and it was from this denial that Petitioner then requested the present fair hearing. See Exhibit R-1. It should be noted that all three documents, the Notice of Expiration, the Notice of Missed Interview, and the SNAP denial notice, were sent to the same identical address, which calls into question the credibility of Petitioner’s statement that she received no prior advance notice of the termination, as well as the representation that she advise the Agency of her new telephone number in June, 2022. See Initial Decision at 3. What is unclear in this case, is if Petitioner subsequently filed an application for benefits, and it was that application which was denied by the notice dated September 15, 2023. See Exhibit R-1. Therefore, due to these discrepancies and the lack of clarification in the record presented, I am remanding this matter to the Agency for action as follows. The Agency is to search its records to see if an application was, in fact, submitted after the termination of Petitioner’s prior certification period ended on July 31, 2022. If there had been, the Agency is to evaluate said application for SNAP eligibility, and if found eligible, Petitioner is to be issued retroactive SNAP benefits to the date of that submitted application. See N.J.A.C. 10:87-8.18. If Petitioner’s certification period was ended on July 31, 2022, in error, and no application provided, or if the above referenced notices were not, in fact, issued and sent out by the Agency, Petitioner should also be evaluated for SNAP eligibility, and provided with retroactive benefits, if applicable. Ibid. If Petitioner’s prior certification period properly ended on July 31, 2022, the above referenced notices were sent, and no application was, in fact, submitted, with no contact from Petitioner until her request for a fair hearing on September 29, 2022, then the termination of SNAP benefits shall stand and Petitioner may reapply for SNAP benefits. The Initial Decision is modified to reflect the above findings and analysis.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency’s determination is REVERSED, and the matter is REMANDED for action, as outlined above.

Officially approved final version. April 4, 2023

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Natasha Johnson  
Assistant Commissioner

