



## 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 **02507-23 R.V.**

AGENCY DKT. NO. **C045383017 (SALEM COUNTY BOARD OF SOC. SVCS.)**

Petitioner challenges the correctness of the Respondent Agency's claim for recovery of Supplemental Nutrition Assistance Program ("SNAP") benefits issued to Petitioner between November, 2016, and October, 2022. The Agency asserts that Petitioner's household received SNAP benefits to which it was not entitled, thereby resulting in an overissuance of benefits which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. A telephonic plenary hearing was initially scheduled for April 24, 2023, before the Honorable Robert D. Herman, Administrative Law Judge ("ALJ"). On that date, the hearing began, but was adjourned after Petitioner advised that she had not reviewed the documentation submitted by the Agency. The hearing resumed on April 25, 2023, when testimony and documentation were admitted. See Initial Decision at 2. However, testimony was not proffered with respect to the overpayment amount, and as such, the record remained open for the submission of supporting documentation by either party. Ibid. On May 4, and May 10, 2023, the Agency provided two supplemental submissions. Ibid. Thereafter, on May 16, 2023, testimony was presented regarding the overpayment calculations, and the record closed. Ibid. Following review of the documentary evidence, and in order to establish a full and complete record in this case, on May 23, 2023, the ALJ reopened the record, requesting copies of Petitioner's SNAP applications for the period in question, 2016 through 2022. Id. at 2-3. On June 12, 2023, the Agency provided a further supplemental submission, and with no objection having been received from Petitioner, the supplemental documentation was marked and moved into evidence on June 16, 2023, and the record again closed. On June 30, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby ADOPT the Initial Decision, and AFFIRM the Agency determination, 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. Overpayment claims are considered federal debts, which must be established and collected. See N.J.A.C. 10:87-11.2(b). 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 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).

“Every NJ SNAP application shall be made on behalf of a household. It is critically important to determine exactly who constitutes the household for NJ SNAP since all considerations of eligibility will follow from this initial determination.” N.J.A.C. 10:87-2.1. Further, N.J.A.C. 10:87-2.2(a) states, “A household may be composed of any of the following individuals or groups of individuals ... [a] group of individuals living together for whom food is purchased in common and for whom meals are prepared together for home consumption[.]” See N.J.A.C.10:87-2.2(a)(3).

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 only 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.

Here, the record reflects that in November, 2022, the Agency conducted an investigation, from which it determined that S.T., Petitioner's husband since March, 2017, had resided in the same residence with Petitioner since November, 2016, through October, 2022. See Initial Decision at 3. Despite residing together, Petitioner did not include S.T. as a SNAP household member for SNAP benefits eligibility purposes, nor was S.T.'s income included in the eligibility determinations. *Id.* at 3, 5-6. Finding the testimony and documentary evidence presented by the Agency to be credible, the ALJ issued a thorough and comprehensive Initial Decision, outlining the procedural history, providing a detailed factual timeline, and rendering a well thought out analysis, applying law to fact. *Id.* at 7-14. Specifically, the ALJ in this matter found that the evidence presented substantiated that Petitioner had improperly not included S.T. in the household composition for SNAP benefits eligibility purposes, and further, that because S.T. should have been included in the household composition, his income should also have been included in household's total income for the SNAP benefits eligibility determinations during the period in question. *Id.* at 5-7. The record further showed that, upon inclusion of S.T.'s income for the relevant time frame, Petitioner's calculated gross or net income levels exceeded the maximum permissible level for receipt of SNAP benefits for the household size, and as such, Petitioner was ineligible for SNAP benefits during said time frame, and Petitioner was overissued SNAP benefits in the total amount of \$34,957. *Id.* at 5. Based on the foregoing, the ALJ concluded that S.T. should have been included in Petitioner's household composition for the applicable period, and that, upon inclusion of S.T.'s income in the total household income for said time period, Petitioner's household was not eligible for SNAP benefits, and Petitioner's household received an overissuance of SNAP benefits to which it was not entitled, in the total amount of \$34,957, between November, 2016, and October, 2022, which must now be repaid. *Id.* at 13-14; see also N.J.A.C. 10:87-11.20(b), (e)(2). I agree. As such, I direct that the Agency proceed to recoup the overissuance.

I ORDER and direct the Agency to proceed to recoup the overissuance, as outlined above.



By way of comment, Petitioner had initially also challenged a December 1, 2022, termination of SNAP benefits, which contested issue was also transmitted to the OAL for a hearing, together with the overpayment issue. However, at the plenary hearing before the ALJ in this matter, Petitioner withdrew her request on the termination issue. See Initial Decision at 2. Therefore, that issue having been withdrawn by Petitioner, it was not addressed by the ALJ, and is not addressed in this Final Decision.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency determination is AFFIRMED.

Officially approved final version. August 29, 2023

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Natasha Johnson  
Assistant Commissioner

