



## 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 **03963-22 S.W.**

AGENCY DKT. NO. **C106583003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner challenges the correctness, and claim for recovery, of overissuances of Supplemental Nutrition Assistance Program ("SNAP"), Work First New Jersey/Temporary Assistance for Needy Family ("WFNJ/TANF"), and Emergency Assistance ("EA"), benefits. Respondent Agency asserts that for the period beginning March 2015, through December 2015, Petitioner received SNAP and WFNJ/TANF benefits to which she was not entitled, which must now be repaid, and additionally, Petitioner received EA benefits from April 2015, through December 2015, to which she was not entitled, which must also now be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for June 29, 2022, but was adjourned at the request of the Agency. The matter was then rescheduled for July 29, 2022, and on that date, the Honorable Susan L. Olgiati, Administrative Law Judge ("ALJ") held a telephonic plenary hearing, took testimony and admitted documents into evidence. The record remained open for submission of a written closing argument on behalf of Petitioner. On August 31, 2022, the ALJ held a follow-up case conference, and following receipt and review of written closing statements by both parties, the record then closed on September 28, 2022. On October 12, 2022, the ALJ issued an Initial Decision, affirming the overissuances of SNAP, WFNJ/TANF and EA benefits issued to Petitioner.

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 ADOPT the ALJ's 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. 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).

Similarly, under the WFNJ regulations, a recipient is required to satisfy any repayment obligation pursuant to state or Federal law governing public assistance. See N.J.A.C. 10:90-2.2(a)(7). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction[.]" See N.J.A.C. 10:90-3.21(a)(1).

Pursuant to N.J.A.C. 10:90-3.1(c), once initial financial eligibility for WFNJ/TANF is found to exist, financial eligibility continues to exist so long as the assistance unit's total countable income (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income, if applicable) is less than the maximum benefit payment level allowable for the size of the assistance unit, in accordance with Schedule II at N.J.A.C. 10:90-3.3(b). At the time in question, 2015, for an assistance unit of three, the maximum allowable benefit level was \$424. See N.J.A.C. 10:90-3.3(b).

In accordance with N.J.A.C. 10:90-3.8(j), when an overpayment of WFNJ benefits occurs, caused by the benefit recipient's failure, without good cause, to report earned income on a timely basis, the amount of the overpayment shall be calculated without the benefit and application of earned income disregards as outlined at N.J.A.C. 10:90-3.8(b).

Pursuant to N.J.A.C. 10:90-3.11(e), "WFNJ assistance units shall be required to report any change in unearned income and circumstances that could affect eligibility and the benefit amount as soon as possible to the county or municipal agency, but in no event later than 10 calendar days of the date the change happened or in the case of new earnings no later than 10 days from the date of receipt of the first paycheck."

The ALJ in this matter issued a very thorough and comprehensive Initial Decision, outlining the procedural history and factual timeline, and providing a detailed and well thought out legal analysis. The ALJ ultimately concluded that, due to Petitioner's failure to report earned income from three different employers, Petitioner received overissuances of SNAP, WFNJ/TANF and EA benefits to which she was not entitled. See Initial Decision at 11. Based upon an independent review of the record in this case, I concur with the ALJ's decision and hereby ADOPT the Findings of Fact and Conclusion of Law in this matter. The record in this matter reflects that, during the time period in question Petitioner failed to report earned income from three different employers, while receiving SNAP, WFNJ/TANF and EA benefits. See Initial Decision at 3, 6-7. Additionally, I fully agree with the ALJ's conclusion with respect to the date of discovery in this matter, and as such, find that the overissuance claims are valid and Petitioner is responsible for said overissuances in this matter, totaling \$19,222.83. See Initial Decision at 9-10, 11; see also Exhibits R-H, R-I, R-J. Finally, I also agree with the ALJ that the arguments made by Petitioner in this case are unpersuasive. See Initial Decision at 8-10.

With respect to the recoupment of the overissuances in this matter, given the particular circumstances presented in this case, including delays in discovery, establishment of the claim, verification of Petitioner's income from her three employers, and the pandemic, as well as Petitioner's current household economic and financial circumstances, and in accordance with applicable regulatory authority, the ALJ encouraged the Agency to consider, after verification of her present income, if any amount of the \$19,222.83 claim may be compromised. See Initial Decision at 10. I agree. See N.J.A.C. 10:87-11.20(m); see also C.F.R. 273.18(e)(7) and N.J.A.C. 10:90-7.8(e).

Accordingly, the Initial Decision in this matter is ADOPTED, the Agency's determination is hereby AFFIRMED, as outlined above.



Officially approved final version.

January 19, 2023

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Natasha Johnson

Assistant Commissioner

