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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 **08410-22 T.L.**

AGENCY DKT. NO. **C274990016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)**

Petitioner challenges the correctness of the Respondent Agency's recoupment of a Supplemental Nutrition Assistance Program ("SNAP") benefits overissuance. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. The matter was initially scheduled for a hearing on October 17, 2022, but was adjourned for Petitioner to obtain legal counsel. The matter was rescheduled for November 14, 2022, and then adjourned to December 5, 2022, at which time counsel for both parties requested a further adjournment in order to pursue resolution of the case. On January 23, 2023, the matter was then adjourned due to the illness of the Administrative Law Judge ("ALJ") assigned to the case. On February 6, 2023, the Honorable Julio C. Morejon, ALJ, held a telephonic plenary hearing, took testimony, admitted documents into evidence, and the record then closed on that day. On February 7, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination that Petitioner was responsible for the overissuance.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and I hereby MODIFY the Initial Decision, and REVERSE 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).

In accordance with N.J.A.C. 10:87-11.20(d)(1), all adults who were members of a SNAP household at the time an overpayment occurred are responsible for payment of the overpayment claim.



Based on an independent review of the record, the salient facts are as follows. An overissuance of SNAP benefits occurred to J.L., Petitioner's now deceased mother, in Morris County, from August 2009 to April 2010, in the total amount of \$2,821. See Initial Decision at 2-3. The overissuance occurred due to a failure to report earned income. *Id.* at 3. Morris County collected \$100 on the overissuance from J.L. prior to her passing. *Ibid.* Agency records indicated that Petitioner had two daughters, one of whom was 18 or older at the time of the overissuance. *Ibid.* As a result, Morris County transferred the claim to Passaic County, where Petitioner resided, for further collection on the claim. *Id.* at 2-3. Petitioner asserts that she did not reside in the household with her mother at the time of the overissuance, and had not resided there for the past seventeen years. *Id.* at 3. Petitioner provided testimony, under oath, that she had been removed from the household by the Division of Child Protection and Permanency (formerly known as DYFS), when she was still a minor, and that she resided with her father in Passaic County from 2007 to 2017, and where she now resides, and has again resided since 2020. *Id.* at 4. Petitioner further testified that she never returned to live with her mother, after being removed from the household in 2006, and that she was unaware that her mother listed herself and her younger sister as being in the SNAP household at the time, nor had she consented to same. *Ibid.* Petitioner further provided documentary evidence to reflect that she was enrolled in college courses in Passaic County in 2007, as well as a copy a prior driver's license, showing that she was residing in Passaic County in 2011. *Ibid.*; see also Exhibits P-1, P-2.

The ALJ in this matter opined that, as the Agency was unable to provide proof as to which household member was responsible for the household error of failing to report earned income in August 2009, through April 2010, and combined with Petitioner's testimony that she did not reside in the household with her mother at that time, Petitioner was not responsible for payment on the overissuance claim, and therefore, the claim against Petitioner was improper and must be reversed. See Initial Decision at 5-6.

It should be noted that in accordance with applicable regulatory authority, namely N.J.A.C. 10:87-11.20(d)(1), no proof of who in the household was actually responsible for failing to report the earned income, resulting in the overissuance, is required, as all adult members of the household, at the time of the overissuance, are responsible for payment on an overissuance claim. The record reflects that Petitioner's mother was held responsible for the overpayment, and that Morris County collected \$100 on the claim prior to her demise. There is nothing in the record to show that Petitioner's mother ever contested the overissuance, and as such, Petitioner's mother, and all adult members of the household at the time of the overissuance, are responsible for the claim. See N.J.A.C. 10:87-11.20(d)(1). Therefore, the relevant, and important question in this matter, then becomes whether or not Petitioner actually resided in the household at the time of the overissuance. While it appears from Agency records that Petitioner and her younger sibling were residing in the household at that time, based on Petitioner's credible testimony, and supported by the documentation Petitioner was able to provide, the Agency records are erroneous, and I agree with the ALJ's finding that Petitioner did not reside in the SNAP household during the time period in question, and it is on this basis, that I find that Petitioner is not responsible for payment on this claim. The Initial Decision is modified to reflect these findings. If any payments, or deductions were taken from Petitioner's own SNAP benefits towards recoupment of the claim, I direct that said payments be returned to Petitioner accordingly. See N.J.A.C. 10:87-8.18.

By way of comment, only one adjournment of not more than 30 days is permitted in SNAP fair hearings. See N.J.A.C. 10:87-8.6(a)(4)(i).

By way of further comment, as Petitioner's mother is deceased, and it has been found that there was no other adult member in the SNAP household at the time of the overissuance, the Agency should review this claim for termination in accordance with DFD Information Transmittal ("IT") No. 22-16.

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



Officially approved final version.

March 7, 2023

Natasha Johnson

Assistant Commissioner

