



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
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 **07255-23 V.F.**

AGENCY DKT. NO. **C034120019 (SUSSEX COUNTY DIVISION OF SOC. SVCS.)**

Petitioner challenges the correctness of the Respondent Agency's claim for recoupment of Supplemental Nutrition Assistance Program ("SNAP") benefits issued to Petitioner during the period of August 2018 to March 2021. The Agency asserts that Petitioner's household received benefits to which it was not entitled, thus 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. On September 12, 2023, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 13, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on September 25, 2023.

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 REVERSE the Agency determination, based on the discussion below.

In issuing a Final Agency Decision, following receipt of an Initial Decision from the Office of Administrative Law, N.J.A.C. 1:1-18.6(c) states, "The agency head may not reject or modify any finding of fact as to issues of credibility of lay witness testimony unless it first determines from a review of a record that the findings are arbitrary, capricious or unreasonable, or are not supported by sufficient, competent, and credible evidence in the record."

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).



Here, based on homeowner's documentation, receipt of mail documentation, voter registration documentation, utility bill documentation, credit reports, and employment records, the Agency alleged that Petitioner's companion ("E.D.") was residing with her during the overissuance time period at issue, and that due to an IHE, Petitioner had failed to report E.D. as a member of her SNAP household. See Initial Decision at 2; see also Exhibit R-1 at 6-24, 28-29, 32-33, 40-45, 102-104, and N.J.A.C. 10:87-11.20(e)(2). Consequently, the Agency sought recoupment for an over issuance of SNAP benefits from August 2018 to March 2021, in the amount of \$22,402.00. See Initial Decision at 1-2; see also Exhibit R-1 at 6-11, and N.J.A.C. 10:87-11.20, -11.20(f)(1)(i). However, based on Petitioner's testimony, which the ALJ found to be credible, as well as the documentation provided, and more specifically, the Agency's failure to investigate and substantiate whether or not E.D. had in fact been residing with Petitioner during the time period at issue, the ALJ found that the Agency had failed to prove by a preponderance of the evidence that E.D. had indeed been residing with Petitioner during the time period in question. See Initial Decision at 3. Accordingly, the ALJ concluded that E.D. did not live with Petitioner from August 2018, until the present, and as such, denied the Agency's demand for repayment of SNAP benefits due to overissuance. Ibid.; see also Exhibit R-1 at 6-11. As a result of the ALJ's credibility finding, I agree, and I further find that the documentary evidence provided is unclear and inconclusive as to whether or not E.D. had resided with Petitioner during the time period at issue. See Initial Decision at 2; see also N.J.A.C. 1:1-18.6(c).

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby ADOPTED and the Agency determination is REVERSED, as outlined above.

Officially approved final version. October 12, 2023

Natasha Johnson
Assistant Commissioner

