



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
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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 **01819-23 Y.R.**

AGENCY DKT. NO. **C104139015 (OCEAN COUNTY BOARD OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's determination that it was not responsible to replace Supplemental Nutrition Assistance Program ("SNAP") benefits which had been allegedly stolen from Petitioner's Electronic Benefits Transfer ("EBT") card. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 5, 2023, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence. On May 19, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I hereby MODIFY the Initial Decision and AFFIRM the Agency's determination, based on the discussion below.

Here, the record reflects that on December 6, 2022, Petitioner went to purchase groceries for her family with her SNAP benefits EBT card, and her purchase was declined due to "insufficient funds." See Initial Decision at 4; see also Exhibit P-2. On that same date, Petitioner contacted local police and filed a police report, who advised Petitioner to contact Families First. See Exhibit P-2. Thereafter, Petitioner contacted Families First and was informed that there was a \$0 balance on the account. Ibid. Upon notification of the occurrence, the Agency immediately cancelled Petitioner's Families First EBT card, issued a new card and suggested that Petitioner choose a different PIN number for the new card. See Initial Decision at 2. The Agency also then completed a referral to the investigative unit regarding the alleged unauthorized transactions from Petitioner's EBT card, which appeared to have occurred by some means of "skimming." Id. at 2-3. The investigation into the unauthorized transactions showed two large transactions which had occurred at two different locations in Brooklyn, NY, on December 4, 2022, and December 5, 2022. Id. at 3. The first transaction was for \$3,883, and the second transaction for \$2,324. Ibid.; see also Exhibit R-1. The record further shows that a third large transaction, also for \$2,324, was attempted later on December 5, 2022, but was declined due to insufficient funds. Ibid. Petitioner testified that neither she, nor her husband, made any of these purchases, nor



were they authorized by either of them. See Initial Decision at 3-4. The ALJ in this matter correctly stated that current regulatory authority does not permit the Agency to replace stolen SNAP benefits. Id. at 4. However, the ALJ also referenced a recent Federal law which was enacted in December 2022, as part of the Consolidated Appropriations Act, 2023, to address and replace SNAP benefits “that are determined by the State agency to have been stolen through card skimming, card cloning, or similar fraudulent methods.” See Initial Decision at 4-5; see also Consolidated Appropriations Act, 2023, H.R. 2617, 117th Cong. section 501(b) (2023). As a result of this new law, states will be able to replace benefits, within certain parameters, stolen between October 1, 2022, and September 30, 2024. See Initial Decision at 5. Replacement of stolen benefits will be equal to 2 months of benefits allotments, or the amount stolen, whichever is less. Ibid. The law further directs states to submit a State Plan to the United States Department of Agriculture (“USDA”) for approval. Id. at 6. At the time of the writing of the ALJ’s Initial Decision, New Jersey had submitted its State Plan, but it had not yet been approved. Id. at 7. Based on the foregoing, the ALJ affirmed the Agency’s determination that it would not replace Petitioner’s allegedly stolen SNAP benefits. Ibid.

Petitioner is now advised that New Jersey’s State Plan was approved, and SNAP benefits recipients, who claim that they had SNAP benefits stolen through unauthorized transactions as a result of some form of skimming, may submit a claim for their loss(es). For losses which occurred prior to July 1, 2023, as in this case, a claim must be submitted no later than August 31, 2023. Therefore, Petitioner is advised to contact the Agency as soon as possible, and submit the requisite claim form. That form can be found at www.NJSNAP.gov or by contacting the Agency directly. The Initial Decision is modified to reflect these findings.

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

Officially approved final version. July 6, 2023

Natasha Johnson
Assistant Commissioner

