



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 **00087-22 A.K.**

AGENCY DKT. NO. **S638645012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency denied Petitioner SNAP benefits, contending that her countable household income exceeded the maximum allowed for eligibility for SNAP benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 25, 2022, the Honorable Judith Lieberman Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open to allow the parties to submit additional information, and the record then closed on February 8, 2022. On February 14, 2022, the ALJ issued an Initial Decision, modifying the Agency's determination.

No Exceptions to the Initial Decision were filed by either party.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, MODIFY the Agency's determination, and REMAND the matter to the Agency for action, as discussed below.

Here, the record reflects that on October 5, 2021, Petitioner, as a qualified alien eligible to participate in the SNAP program, applied for SNAP benefits for herself and her spouse. See Initial Decision at 2; 6, see also Exhibit R-1 at 2-15, and N.J.A.C. 10:87-3.7(a). In her SNAP application, Petitioner indicated that she and her spouse reside with L.M., Petitioner's daughter, that the household's total gross income is less than \$150, and that neither Petitioner, nor her spouse, pays rent. See Initial Decision at 2; see also Exhibit R-1 at 9. Thereafter, the Agency approved Petitioner's application for SNAP benefits; however, because Petitioner and her spouse are qualified aliens, also requested that they provide, among other items, their immigration sponsor's income, resources and household size. See Initial Decision at 2, 6; see also Exhibits R-2, R-3 at 23-24, and N.J.A.C. 10:87-7.11. On November 16, 2021, V.K., Petitioner's son and sponsor, in response to the Agency's November 8, 2021, request, provided information regarding his total household income and the composition of his household. See Initial Decision at 2; see also Exhibit R-3 at 21, 22. Based upon the information submitted by V.K., the



Agency determined that V.K.'s monthly household gross income totaled \$14,390. See Initial Decision at 3; see also Exhibit R-4. The monthly gross income eligibility limit for a household of four (the size of V.K.'s household), is \$4,086. See DFD Instruction ("DFDI") No. 21-09-01 at 15. This amount was deducted from V.K.'s total monthly household income (\$14,390 - \$4,086), and the difference, \$10,034, was deemed as monthly income to Petitioner. See Initial Decision at 3; see also Exhibit R-4, and N.J.A.C. 10:87-7.11(b)(1), (2). As the maximum monthly income permitted for SNAP eligibility for a household size of two (same as Petitioner's) is \$1,427, by notice dated November 23, 2021, the Agency denied Petitioner's application for SNAP benefits, as V.K.'s monthly income, as attributed to Petitioner, exceeded the monthly gross income eligibility. See Initial Decision at 3; see also Exhibit R-5, and N.J.A.C. 10:87-6.16(b), -7.11(a)(1). The ALJ found that based upon V.K.'s reported income, Petitioner was ineligible for SNAP benefits. See Initial Decision at 12. Based upon an independent review of the record, I agree with the ALJ's finding.

L.M., Petitioner's daughter and V.K.'s sister, testified that V.K. does not provide their parents with assistance, and is not in constant communication with their parents, although, for immigration purposes, he serves as a sponsor of one of their parents. *Id.* at 4. L.M. also testified that V.K. has provided, at most, \$50 dollars per month, while, some months, he contributes nothing. *Ibid.* Lastly, L.M. argues that V.K.'s income, as a sponsor for one of their parents, should not be deemed to Petitioner because, "the law concerning SNAP applicants and deeming of their sponsors' income has recently changed." *Ibid.* During her testimony, L.M. made reference to Executive Order ("E.O.") 14012, signed by President Joseph R. Biden, which, among other things, "directs [A]gencies to develop procedures . . . for how the income and resources of the sponsor and the sponsor's spouse will be deemed attributable to the alien in determining eligibility . . . and the amount of benefits that may be awarded[.]" *Id.* at 4, 11-12; see also Exhibit P-2, and Federal Register, Vol. 86, No. 23, Friday, February 5, 2021, Presidential Documents, pp. 8277-8280.

The ALJ found that, based upon the specific language of E.O. 14012, requiring that "federal agencies develop welcoming strategies that promote integration, inclusion, and citizenship, and should embrace the full participation of the newest Americans in our democracy," the SNAP regulations contemplate that a qualified alien may be exempt from the deeming of their sponsor's income when indigent. See Initial Decision at 12; see also Exhibit P-2, and N.J.A.C. 10:87-7.11(e)(v). The ALJ further found that an analysis must be conducted to determine whether an alien's indigency permits exemption from the deeming requirement, and later concluded that the Agency did not conduct this analysis. See Initial Decision at 12, see also N.J.A.C. 10:87-7.11(e)(v). Notably, in the instant matter, the ALJ could not make specific findings regarding Petitioner's indigency during the hearing, as neither Petitioner, nor L.M., had supplied documentary or other evidence supporting Petitioner's claims of financial hardship. See Initial Decision at 5. Accordingly, the ALJ ordered that the Agency's denial of Petitioner's application for SNAP benefits be modified, and that the Agency should address with Petitioner, whether N.J.A.C. 10:87-7.11(e)(v) is applicable. *Id.* at 12. I also agree with the ALJ's finding.

Because I agree with the ALJ, I am remanding this matter back to the Agency for action as follows. The Agency shall address with Petitioner the application of the indigency provision, as outlined in N.J.A.C. 10:87-7.11(e)(v), including the requisite declaration and reporting of non-support by V.K. *Id.* at 12-13. If Petitioner is determined to be eligible for SNAP benefits, Petitioner is to be provided with retroactive SNAP benefits to October 5, 2021, the date of Petitioner's application. See Exhibit R-1; see also N.J.A.C. 10:87-8.18. I note that Petitioner can only be granted SNAP benefits upon a determination that Petitioner is, in fact, eligible for same. See N.J.A.C. 10:87-6.2.

Accordingly, the Initial Decision is hereby ADOPTED, the Agency's determination is hereby MODIFIED, and the matter is REMANDED to the Agency for action, as outlined above.



Officially approved final version.

April 6, 2022

Natasha Johnson
Assistant Commissioner

