



## 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 **08187-21 C.C.**

AGENCY DKT. NO. **S476697014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)**

Petitioner challenges the correctness of the Respondent Agency's claim for recovery of Supplemental Nutrition Assistance Program ("SNAP") benefits issued to Petitioner between August, 2020, through December, 2020, and May, 2021, through July, 2021. The Agency asserts that Petitioner's household received SNAP benefits to which it was not entitled during the periods in question, resulting in an overissuance of benefits which must be recouped. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On December 20, 2021, the Honorable Susana E. Guerrero, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. Thereafter, the ALJ requested additional information from the Agency, which was received on December 29, 2021. The hearing was reconvened on January 18, 2022, in order to address some of the documentation which had been submitted by the Agency, but the parties did not appear, and the record then closed on that date. On January 20, 2022, the ALJ issued an Initial Decision, modifying the Agency's determination.

Exceptions to the Initial Decision were filed by Agency on January 31, 2022.

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 MODIFY 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).



Regulatory authority applicable to SNAP benefit cases, defines income as “all income from whatever source unless such income is specifically excluded.” See N.J.A.C. 10:87-5.3. Additionally, for SNAP benefits cases, unearned income includes survivors, disability, and Social Security benefits for both adults and children in the household. See N.J.A.C. 10:87-5.5(a)(2). Further, N.J.A.C. 10:87-5.5(a)(2) specifically includes “unemployment compensation” as unearned income which is to be included when determining a household’s SNAP eligibility.

Here, the record reflects that Petitioner began receiving SNAP benefits in September 2020, and was also receiving unearned income in the form of Unemployment Insurance Benefits (“UIB”) at that time. See Initial Decision at 2; see also Exhibits R-4, R-5. The record further reflects that in late July 2020, Petitioner had applied for Social Security survivor benefits, more specifically, Retirement, Survivors and Disability Insurance (“RSDI”) benefits, on behalf of his minor child after the death of the child’s mother. See Initial Decision at 2. The child was subsequently approved for RSDI benefits, with a retroactive lump sum payment first being made on October 5, 2020, and monthly payments of \$1,278.00 being made thereafter. *Id.* at 3; see also Social Security Administration RSDI Notice of Award letter, dated October 4, 2020. On December 5, 2020, the Agency notified Petitioner that his SNAP benefits would be reduced to zero as a result of the combined unearned income from his UIB and the child’s RSDI benefits, which rendered the household ineligible for SNAP benefits as exceeding the maximum gross income allowable for the household size. *Id.* at 3; see also DFD Instruction number 20-09-04 at 13. At the time of recertification in June, 2021, Petitioner reported that his child continued to receive RSDI benefits, now in the amount of \$1,295. See Initial Decision at 3. The Agency maintains that Petitioner had incorrectly reported that he had exhausted his UIB benefits that month, and as such, the Agency did not count the unearned income from UIB in the SNAP benefits eligibility calculations, resulting in SNAP benefits eligibility. *Ibid.* However, the Agency later learned that Petitioner did, in fact, receive UIB into August 2021. *Ibid.*; see also Exhibit R-4. As a result, the Agency issued notice to Petitioner on September 16, 2021, of an overissuance of SNAP benefits to Petitioner, totaling \$2,954 during the months of August, 2020 to December, 2020, and May, 2021 to July, 2021, as the result of an IHE. See Initial Decision at 4; see also Exhibit P-2 and N.J.A.C. 10:87-11.20(e)(2).

Based on the evidence presented in this matter, the ALJ found that Petitioner was only receiving UIB in August and September, 2020, and as such, there was no overissuance of SNAP benefits in those months. See Initial Decision at 4, 5. Accordingly, the ALJ concluded that the overissuance months and corresponding amounts, as listed in the Agency’s September 16, 2021, adverse action notice should be modified respectively to October, 2020, through December 2020, and May 2021, to July 2021, for a total revised overissuance amount of \$2,244. *Id.* at 6. I agree that the overissuance months and corresponding amounts should be modified. However, as pointed out in the Exceptions filed by the Agency, based on the October 5, 2020, RSDI award letter, Petitioner became ineligible for SNAP benefits due to excess income at that time, and would have needed to have reported the RSDI award by October 15, 2020. See N.J.A.C. 10:87-9.5. As a result, the first month of overissuance would, in fact, have been November 2020, and therefore, the total amount of overissuance would be further reduced to \$1,870. See Exceptions. Based upon an independent review of the record, I agree that the correct overissuance periods are November and December 2020, and May, 2021, through July, 2021, and the correct overissuance amount is \$1,870. The Initial Decision and the Agency adverse action notice are both modified to reflect these findings.

I ORDER and direct the Agency to proceed to recoup the total overissuance, as outlined above.

Accordingly, the Initial Decision is hereby MODIFIED and the Agency determination is also MODIFIED.



Officially approved final version.

March 16, 2022

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Natasha Johnson

Assistant Commissioner

