



State of New Jersey

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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 **08098-21 E.G.**

AGENCY DKT. NO. **C095410015 (OCEAN COUNTY BOARD OF SOC. SVCS.)**

Petitioner challenges the correctness of the Respondent Agency's recoupment of Supplemental Nutrition Assistance Program ("SNAP") benefits, due to an overissuance. The Agency asserts that Petitioner received SNAP benefits to which he was not entitled, as the result of a failure to report income earned from self-employment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 9, 2021, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. Petitioner's spouse, E.G., appeared and presented testimony. Thereafter, the ALJ requested that the parties submit closing summations so that they could properly frame their respective arguments. After receipt of closing summations, the record then closed on December 13, 2021. On December 15, 2021, the ALJ issued an Initial Decision, affirming 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 considered the ALJ's Initial Decision and following an independent review of the record, I hereby ADOPT the ALJ's Initial Decision, and AFFIRM the Agency action.

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 up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

For SNAP purposes, when determining the countable income from self-employment, States use the standard amount it uses for its Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") Program, which means that when determining eligibility for SNAP benefits, Agencies utilize a standard self-employment deduction of 51% for a self-employed household which can verify



an allowable expense. See DFDI Instruction (“DFDI”) Number 13-12-01; see also N.J.A.C. 10:87-7.3, 10:90-3.9, and 7 C.F.R. 273.11(b)(3)(iv).

Here, the record reflects that Petitioner received monthly SNAP benefits, beginning in September, 2015, through March, 2021. See Initial Decision at 2; see also Exhibit R-7. In Petitioner’s initial application dated June 1, 2015, and in recertification applications dated May 7, 2016, April 20, 2017, April 19, 2018, April 27, 2019, and May 21, 2020, Petitioner never indicated that he and his spouse were self-employed. See Initial Decision at 3; see also Exhibit R-4. Similarly, in Interim Reporting Forms (“IRF”) dated September 23, 2015, November 1, 2016, September 13, 2017, September 12, 2018, October 17, 2019, and October 15, 2020, Petitioner never reported that he and his spouse were self-employed. See Initial Decision at 4; see also Exhibit R-5. The ALJ found that the income reported by Petitioner was income from the same company which had changed its name over years, and that the actual amount of Petitioner’s earnings was “drastically underreported.” See Initial Decision at 2; see also Exhibits R-3, R-4, R-5.

Thereafter, the Agency determined that, from September, 2015, through March, 2021, Petitioner had failed to report income from self-employment, while receiving SNAP benefits during the same time period, which had resulted in an overissuance of SNAP benefits received by Petitioner in the amount of \$42,130. See Initial Decision at 3, 4; see also Exhibits R-7, and N.J.A.C. 10:87-5.4(a)(3), -7.2, -7.3(a), -11.20(f). Accordingly, on August 19, 2021, the Agency sent Petitioner a Notice to Repay Overissued NJ SNAP Benefits, seeking to recoup the \$42,130, in overissued SNAP benefits. See Exhibit R-8.

Petitioner contends that he is, in fact, eligible for the SNAP benefits received beginning September, 2015, through March, 2021, and that he should not have repay the overissued SNAP benefits, because the Agency should have used his actual costs of self-employment to determine how much income was earned, as opposed to the methodology it had implemented, as outlined in DFDI 13-12-01, to calculate his household income from self-employment. The ALJ found that Petitioner did not provide receipts documenting all costs associated with the operation of the business, and that the methodology used by the Agency was accurate, taking into account the significant omissions by Petitioner during the investigation. See Initial Decision at 4-5, 8. The ALJ further found that it was only after a significant period of time during the hearing process that Petitioner provided an accounting of potential expenses for their self-employment business, and even this production of documents was incomplete. *Id.* at 4; see also Exhibit R-6. The ALJ also found that the amount of gross income, as demonstrated by Petitioner’s bank accounts, was multiplied by the standard self-employment deduction, and that the resultant figure was utilized by the Agency to appropriately establish Petitioner’s household income. See Initial Decision at 8.

The ALJ concluded that the Agency had proven, by a preponderance of the credible evidence, that it took appropriate action in calculating the overpayment of SNAP benefits, and that Petitioner failed to provide any competent evidence to defend this claim. *Ibid.*; see also Exhibit R-7. Accordingly, the ALJ concluded further that from September, 2015, through March, 2021, Petitioner had failed to report income from self-employment, while receiving SNAP benefits during the same time period, and as a result, had received an overissuance of benefits in the amount of \$42,130, to which he was not entitled. See Initial Decision at 8; see also Exhibit R-8, and N.J.A.C. 10:87-5.4(a)(3), -7.2, -7.3, -11.20. I agree.

I ORDER and direct that the Agency proceed to recoup the overissuance.

Accordingly, the Initial Decision in this matter is hereby ADOPTED, and the Agency’s determination is AFFIRMED.



Officially approved final version.

February 24, 2022

Natasha Johnson

Assistant Commissioner

