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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 **00633-22 E.H.**

AGENCY DKT. NO. **C163214015 (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 she was not entitled, as a result of a failure to accurately report household income and composition. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. The matter was initially scheduled for hearing on February 22, 2022, but was adjourned for Petitioner to retain counsel. At the newly scheduled hearing date of March 8, 2022, Petitioner requested another adjournment, as she appeared pro se, and advised the tribunal that she had been in contact with South Jersey Legal Services, Inc. ("SJLS"), and that SJLS was reviewing the file. The Agency consented to Petitioner's request to adjourn the March 8, 2022, hearing date. On the rescheduled hearing date of March 28, 2022, both parties failed to appear. The next day, on March 29, 2022, the Honorable Sarah H. Surgent, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents into evidence. During the hearing, Petitioner objected to a spreadsheet prepared by the Agency, which, according to the Agency, represented a summary of Petitioner's and K.P.'s income, based on voluminous bank records it had received in response to Agency subpoenas. The Agency indicated that it would take time to produce the bank records and for Petitioner to review same, and as such, the hearing was adjourned. Having produced the bank records, on April 22, 2022, the hearing resumed, with Petitioner being represented by counsel, and the record later closed on that date. On May 6, 2022, the ALJ issued an Initial Decision, affirming the Agency's calculation and recoupment of the overissuances of SNAP benefits to Petitioner, only for the period of February, 2019, through July, 2019, and ordering the Agency to recalculate Petitioner's eligibility for SNAP benefits, for the period beginning December, 2020, through August, 2021.

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 record in this matter and I hereby ADOPT the Initial Decision, AFFIRM IN PART the



Agency determination, REVERSE IN PART the Agency determination, and REMAND to the Agency for action, based on the discussion below.

In the instance of an overpayment of [SNAP] 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 resulting from a misunderstanding or unintended error on the part of the household, 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).

Here, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner, for the period beginning February, 2019, through July, 2019, had received an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 7. Specifically, the ALJ found, and Petitioner admits, that she had failed to report the self-employment income from her former partner, K.P., and as a result, received an overissuance of SNAP benefits in the amount of \$1,618, for the period beginning February, 2019, through July, 2019. See Initial Decision at 2, 3; see also Exhibits R-1, R-3, R-6, R-7, and N.J.A.C. 10:87-5.4(a)(3), -9.5. The ALJ further found that Petitioner received an overpayment of SNAP benefits, which must be repaid to the Agency. See Initial Decision at 6; see also N.J.A.C. 10:87-11.20(e). Accordingly, the ALJ concluded that the Agency may seek repayment of the SNAP benefits Petitioner received for the period beginning February, 2019, through July, 2019. See Initial Decision at 7. I agree.

As it relates to the SNAP benefits in the amount of \$4,842, issued to Petitioner beginning in December, 2020, through August, 2021, the ALJ found that the Agency had not met its burden in establishing, by a preponderance of the credible evidence, that Petitioner had received an overissuance of SNAP benefits to which she was no entitled. *Ibid.* The ALJ found Petitioner highly credible when she testified that she did not include K.P. or his income on her December 9, 2020, SNAP application, because he was no longer a member of the household, and that he left the household on April 15, 2020, and was no longer providing any money for household expenses or financial support for their children. *Id.* at 4; see also Exhibits, P-1, R-7. The ALJ further found that Petitioner and K.P. have not resided, nor shared meals, together since K.P. moved out in April, 2020. See Initial Decision at 4; see also N.J.A.C. 10:87-2.2(a)(3). Therefore, the ALJ concluded that K.P.'s income should not have been included in the Agency's calculation of the \$4,842 alleged overpayment of SNAP benefits Petitioner received from the period beginning December, 2020, through August, 2021. See Initial Decision at 7; see also Exhibits R-1, R-2 at 1-4. Accordingly, the ALJ reversed the Agency's determination seeking to recoup \$4,842 in SNAP benefits Petitioner received beginning December, 2020, through August, 2021. See Initial Decision at 8. The ALJ further ordered the Agency to recalculate Petitioner's eligibility for SNAP benefits, for the period beginning December, 2020, through August, 2021, without including K.P.'s income as a part of Petitioner's total household income, and to reimburse Petitioner for any lost benefits due to the Agency's miscalculation of Petitioner's household income. *Id.* at 7, 8. I agree and accordingly, I am remanding this matter back to the Agency for action as follows. The Agency shall re-evaluate Petitioner's eligibility for SNAP benefits for the period beginning December, 2020, through August, 2021, without including K.P.'s income. If Petitioner is determined to be eligible for SNAP benefits, Petitioner is to be provided with any lost retroactive SNAP benefits to December 9, 2020, the date of her second SNAP benefits application. See Exhibit R-7, and N.J.A.C. 10:87-8.18.

Based on the foregoing, I ORDER and direct the Agency to proceed to recoup the overissuance of \$1,618 in SNAP benefits, received by Petitioner for the period beginning February, 2019, through July, 2019.

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



Officially approved final version.

May 19, 2022

Natasha Johnson
Assistant Commissioner

