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Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **00090-22 H.M.**

AGENCY DKT. NO. **S638770012 (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 Petitioner's total household gross income exceeded the maximum permissible level for receipt of said 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 into evidence. On February 7, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on February 17, 2022.

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, the ALJ's Initial Decision is hereby MODIFIED, and the Agency determination is also MODIFIED, based on the discussion below.

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 child support and alimony payments made directly to the household from non-household members. See N.J.A.C. 10:87-5.5(a)(5).

For SNAP benefits eligibility purposes, the monthly income amount from a recurring amount of income, received on a weekly basis, whether earned or unearned, is determined by multiplying the weekly amount by 4.333. See N.J.A.C. 10:87-6.9(d)(1).

In accordance with N.J.A.C. 10:87-6.16(d)(2), in determining SNAP benefits eligibility, households that do not contain an elderly or disabled household member must meet both the gross income test, as well as the net income test, meaning that the respective income amounts must be below the established standards. See also N.J.A.C. 10:87-12.3, -12.4.



Gross income is determined by adding together the household's monthly earned and unearned income, minus any earned income exclusions. See N.J.A.C. 10:87-6.16(b), (b)(1). That total gross income amount is then utilized to determine a household's SNAP eligibility in accordance with N.J.A.C. 10:87-6.16(d)(1) and (2).

The record in this matter reflects that Petitioner applied for SNAP benefits on October 11, 2021, and Petitioner's SNAP household is comprised of five persons. See Initial Decision at 2; see also Exhibits R-1 at 3, and R-4. The record further shows that Petitioner has earned income in the amount of \$3298 per month. See Initial Decision at 2; see also Exhibits R-4, and R-6 at 3-5. Additionally, Petitioner receives unearned income in the form of weekly child support payments and a monthly alimony payment. See Initial Decision at 2; see also Exhibits R-4, R-6, and R-8a. The Agency in this matter averaged three months of child support payments for an amount of \$1001, plus the monthly alimony payment of \$500, for a total unearned income of \$1501. See Exhibits R-4, R-6, and R-8a. Combining that amount to the household's earned income amount, or \$1501 + \$3298, results in a total household gross income of \$4799. See Initial Decision at 3; see also N.J.A.C. 10:87-6.16(b). No evidence was presented by Petitioner that either herself, or any of her children, are elderly or disabled, and therefore, in order to be eligible for SNAP benefits, Petitioner must meet both the gross income test, and the net income test. See N.J.A.C. 10:87-6.16(d)(2). For SNAP benefits eligibility, the maximum gross income level for a household of five persons is \$4786. See N.J.A.C. 10:87-12.4 and DFD Instruction ("DFDI") no. 21-09-01 at 15. As Petitioner must meet both the gross income and net income requirements for receipt of SNAP benefits, and Petitioner's total gross income of \$4799 exceeds the maximum gross income level of \$4786, the Agency determined that Petitioner does not meet the gross income test, and therefore, Petitioner is ineligible to receive SNAP benefits. See Initial Decision at 3; see also Exhibit R-8 and N.J.A.C. 10:87-6.16(d)(2).

In the hearing before the ALJ, the primary contested issue was the correct amount of monthly child support payments and the calculation of same. The record reflects that Petitioner's ex-husband pays weekly child support of \$231, and monthly alimony of \$500. See Exhibits R-6 at 2, R-8a, and R-9. It should be noted that child support and alimony payments are collected through the requisite county office of probation, by wage garnishment or payment from the non-custodial parent, and then the funds are transferred to the custodial parent by electronic funds transfer ("EFT"). Ibid. In this matter, as the totaled amounts of child support payments and alimony appeared to vary over a three month period, the ALJ concluded that the months where more was paid included payments of arrears, and in accordance with regulatory authority, stating that non-recurring child support payments were lump-sum payments to be excluded from income, the ALJ found that the excess amounts, over the perceived monthly amounts, should be excluded from income, and thus Petitioner's calculated gross income, for SNAP eligibility, was below the threshold and she was therefore eligible for SNAP benefits. See Initial Decision at 5-6.

While I do not disagree with the cited regulatory authority, the ALJ's finding that there were arrears payments in this matter, as reflected by the monthly payment totals, is misplaced. First, the record shows that there were no arrears on Petitioner's child support/alimony case. See Exhibit R-8a at 1. Secondly, and most importantly, the reason that the child support total amounts vary over the three month periods reviewed by the Agency, of either \$1424, or \$1655, is due to the amount of weeks counted in a month, which are either 4, or 5. See Exhibits R-6, and R-8a at 2. Explained more simply, the child support is paid weekly, and when a particular week falls in, or bridges, two different months, the child support payment has to be attributed to one month or the other, not to both months. The attribution of the weekly child support payment goes to the month with the majority of days in that particular week, e.g. in September 2021, the first four days of September fall in one week, and that weekly child support payment counts for week one in September. Similarly, the last week of September has 5 days, so that week's child support payment is also counted in September, for a total of 5 weeks of \$231 weekly child support payments, or \$1155, plus \$500 in monthly alimony, for a monthly September total of \$1655 in unearned income, versus only four counted weeks of payments in both October and November



2021, or $\$231 \times 4 = \924 , plus the weekly alimony of \$500, for a total monthly unearned income of \$1424. Ibid. Therefore, it is clear that there are no arrearages coming into play in this case, and that the ALJ is mistaken in that assertion. In order to address such fluctuations, the SNAP regulations call for the use of a multiplier, 4.333, in order to reach an appropriate monthly amount, when recurring weekly amounts are paid, either in unearned, or earned, income. See N.J.A.C. 10:87-6.9(d)(1). Applying the multiplier, $4.333 \times \$231 = \1000.923 , which is rounded up to \$1001, plus the \$500 a month in alimony, brings the unearned monthly income total to \$1501. Ibid. While this is the same amount reached, and used, by Agency in this case, I find that the Agency should have used the multiplier of 4.333 on the top of its "manual" calculations forms, rather than the "best estimate of last 3 months" which was utilized, due to the fact that the weekly amount in this matter is a known, set, recurring amount. See Exhibits R-6 and R-8a at 2. I also note that this method of determining a monthly amount of unearned income is corroborated by yet another simple calculation method, that being to take the weekly child support payment of $\$231 \times 52$ weeks in year, for a total of \$12,012, and dividing that amount by 12, for a monthly child support payment amount of \$1001, plus the set amount of \$500 in monthly alimony, totaling \$1501.

Based on the foregoing, I agree with the Agency that Petitioner's gross income exceeds the maximum gross income level for her household size for SNAP eligibility; however, both the Initial Decision, and the Agency's determination are hereby modified to reflect the above analysis and findings. See Exhibits R-4 and R-8.

By way of comment, I note that Petitioner's application for SNAP benefits lists one of Petitioner's children being in college. See Exhibit R-1 at 3. While the record reflects that information was requested in the Request for Verification, pertaining to this child's educational expenses, there is no documentation, provided by the Agency, as to what documentation was, in fact, provided by Petitioner. See Exhibits R-2, R-7. In accordance with applicable regulatory authority, college students are not eligible for SNAP benefits unless specific criteria are met. See N.J.A.C. 10:87-3.14; see also DFDIs nos. 19-01-06, 21-07-01 and N.J.A.C. 10:87-2.3(a)(2)(i). The record is devoid of any information as to if Petitioner's child met these criteria, such that he may be included in the SNAP household for eligibility purposes. If Petitioner's child, attending college, should have been excluded from the SNAP household, and therefore the SNAP household was 4 persons, rather than 5, then applicable maximum gross income level would be \$4086. See DFDI no. 21-09-01 at 15.

Accordingly, the Initial Decision in this matter is hereby MODIFIED and the Agency's determination is also MODIFIED, as outlined above.

Officially approved final version.

April 8, 2022

Natasha Johnson
Assistant Commissioner

