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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 **01918-22 I.E.**

AGENCY DKT. NO. **C734000007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner challenges the correctness of the Respondent Agency's calculation of Supplemental Nutrition Assistance Program ("SNAP") benefits. Petitioner's eligible monthly SNAP benefits allotment was reduced in January, 2022, due to the household's increase in unearned income, in the form of Retirement, Survivors and Disability Insurance ("RSDI") benefits, as a result of a federal mass change increase for the cost of living. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A telephonic plenary hearing was originally scheduled for April 7, 2022, but was adjourned. On April 19, 2022, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open for the Agency to submit additional documentation, and then closed on May 5, 2022. On May 6, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were filed.

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 AFFIRMED, 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).

Households determined eligible for SNAP benefits are certified for said benefits for a definite period of time. See N.J.A.C. 10:87-6.20. County Welfare Agencies ("CWAs") assign the longest certification periods possible based upon the predictability of the household's circumstances. Ibid. In households which contain adult members who are all elderly or disabled, the certification period assigned is for up to 24 months, with at least one CWA contact every 12 months. Ibid.; see also N.J.A.C. 10:87-9.5(a) (stating that in households which contain all elderly or disabled adults with only unearned income, the certification period is for 24 months, with a 12-month interim contact). In such instances, an Interim



Reporting Form ("IRF") is sent to the household at the 12-month interim contact point. See N.J.A.C. 10:87-9.5(a)(3).

When a federally mandated change to unearned income occurs, which thereafter results in a reduction or termination of SNAP benefits, regulatory authority states that no fair hearing may be given on that mass change. See N.J.A.C. 10:87-8.2A. However, if the household believes the benefits amount was incorrectly calculated by the Agency, the household shall be given the opportunity for a fair hearing. *Ibid.*

The transmittal in this matter reflects that Petitioner requested a fair hearing on February 8, 2022, after his RSDI benefits were increased from \$1642 to \$1748 in January 2022, resulting in a reduction of his entitled monthly SNAP benefits allotment from \$50 to \$20. The increase in RSDI benefits was due to a 5.9% cost of living increase. See Exhibit R-3. As this was an across the board increase, to all RSDI benefits recipients, it is considered a mass change, for which a fair hearing is not given. See N.J.A.C. 10:87-8.2A. However, Petitioner is permitted to challenge the Agency calculations of his benefits allotment. *Ibid.*

The transmittal also reflects that when Petitioner contacted DFD's Bureau of Administrative Review and Appeals ("BARA") on February 8, 2022, to request a fair hearing, he mistakenly thought that his monthly SNAP benefits were being reduced from \$250 to \$20. However, as correctly indicated in the Initial Decision, Petitioner had been receiving the maximum SNAP benefits allotment for his household size of one person, currently \$250, which was a combination of his monthly eligible SNAP benefits allotment of \$20, plus the SNAP emergency allotment of \$230. See Initial Decision at 2; see also Exhibit R-2. The SNAP emergency allotments have been in place as a result of The American Rescue Plan Act of 2021, and bring all eligible SNAP households' benefits allotment amounts to the maximum for each respective household size, regardless of the household's actual SNAP benefits allotment. See DFD Instruction ("DFDI") 21-07-01. A household's actual SNAP benefit allotment on a system generated payment history is shown with an "issue code" of "I" and the SNAP emergency allotment has a "Z" code. *Id.* at 9. This is what, in fact, is reflected on the payment history admitted into evidence in this case. See Exhibit R-2. That payment history also reflects that in September, 2021, Petitioner's actual SNAP benefit allotment was \$19, and Petitioner also received a SNAP emergency allotment of \$215, for the total of the then maximum SNAP allotment for a household of one person of \$234. See DFDI 20-09-04. Effective October 1, 2021, the annual cost-of-living adjustments for SNAP cases was implemented, which changed the maximum SNAP allotment for a household of one person to \$250, and as a result of other annual adjustments in the SNAP benefits eligibility calculations, Petitioner's eligible SNAP benefits allotment increased from \$19 to \$50. See DFDI 21-09-01 at 13; see also Exhibit R-2. While all SNAP benefits households are continuing to receive the SNAP emergency allotments, in addition to their actual eligible allotment amount, it should be noted that such will not continue indefinitely, and thus, at some point in the future, Petitioner will only receive his actual eligible allotment amount.

With respect to Petitioner's current actual eligible allotment amount, the record in this matter shows that Petitioner's current certification period for SNAP benefits runs from April 30, 2021, to March 31, 2023. See Exhibit R-1; see also N.J.A.C. 10:87-9.5(a). The record also reflects that, in accordance with applicable regulatory authority, shortly before the 12-month point of Petitioner's certification period, the Agency sent Petitioner an Interim Reporting Form ("IRF"), by which Petitioner was to report any changes in income or expenses and which are utilized in the SNAP benefits calculations. See Exhibit R-3; see also N.J.A.C. 10:87-9.5(a)(3). As a result of Petitioner's submission of the IRF, Petitioner's monthly eligible SNAP benefit allotment was increased from \$20 to \$61, and contrary to the ALJ's assertion in this matter, the \$61 monthly SNAP benefit allotment remains in force. See Exhibit R-1; see also Initial Decision at 3. Based upon an independent review of the record, I agree with the calculations performed by the Agency, establishing Petitioner's current eligible SNAP benefits amount as \$61. See Exhibit R-1; see also N.J.A.C. 10:87-6.16.



It should be noted that Petitioner's actual eligible SNAP benefits allotment will continue through the remainder of his certification period, but may possibly increase when the new annual cost-of-living adjustments for SNAP cases are released and take effect on October 1, 2023. Further, Petitioner will continue to receive the maximum SNAP benefits allotment for his household size until such time as the SNAP emergency allotments cease; it should also be noted that Petitioner was, in fact, also receiving the maximum SNAP benefits allotment in January, 2022, when his actual eligible allotment amount was reduced. See Exhibit R-2. Moreover, as discussed above, Petitioner's eligible monthly SNAP benefit amount has since increased, as a result of the submitted IRF. See Exhibits R-1, R-3. Based on all of the foregoing, I find there was no prejudice to Petitioner that the adverse action notice was not produced by the Agency at the fair hearing. The Initial Decision is modified to reflect the above analysis and findings.

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

Officially approved final version.

June 1, 2022

Natasha Johnson
Assistant Commissioner

