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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 **07199-21 L.A.**

AGENCY DKT. NO. **C136247020 (UNION COUNTY DIVISION OF SOC. SVCS.)**

Petitioner challenges the correctness of a Supplemental Nutrition Assistance Program ("SNAP") recoupment by the Respondent Agency, due to an overissuance. The Agency asserts that Petitioner received SNAP benefits to which she was not entitled, as the result of a failure to report a change in household income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 5, 2021, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents into evidence. The matter was continued on October 20, 2021, and October 25, 2021, after which, the record then closed. On December 6, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were filed by either party.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency action, as discussed below.

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).

If a claim is delinquent for three years or more, the Agency shall terminate and write-off the claim. See N.J.A.C. 10:87-11.20(n)(iv).

Here, the record reflects that on January 28, 2008, the Agency notified Petitioner that for the period beginning July, 2006, through November, 2006, due to an IHE, she had received an overissuance of SNAP benefits in the amount of \$530.00. See Initial Decision at 2; see also Exhibit R-2 at 1-6, and



N.J.A.C. 10:87-11.20(i)(1), (2). The January 28, 2008, notice also included an amount of overissued SNAP benefits, totaling \$58.00, which Petitioner still owed from a prior claim. Thus, the total amount of overissued SNAP benefits that the Agency requested Petitioner re-pay totaled \$588.00 (\$530 + \$58). Ibid.; see also Exhibit R-4 at 21. Petitioner did not respond to the January 28, 2008, notice, and no further action was taken by the Agency, including no further SNAP benefit allotment reductions, as Petitioner had ceased receiving SNAP benefits in May 2008, shortly after discovery of the \$530.00 over payment. See Initial Decision at 3-4. On March 3, 2020, Petitioner relocated to Morris County, and applied for SNAP benefits in Morris County. Id. at 3-4. Shortly thereafter, the Respondent Agency transferred Petitioner's outstanding overissuance debt to Morris County. Id. at 4. In March, 2021, the Morris County Office of Temporary Assistance notified Petitioner that she had an outstanding claim against her for overissued SNAP benefits which had been received from the Respondent Agency. Ibid.

The ALJ in this matter found that more than twelve (12) years had passed between the time the January 28, 2008, notice was sent and the time the Respondent Agency transferred the outstanding debt in March, 2020, to Morris County. Id. at 6. The ALJ further found that the claim should have been written-off and terminated, in accordance with N.J.A.C. 10:87-11.20(n), as it had been delinquent for more than three years. Ibid. Accordingly, the ALJ concluded that the Respondent Agency had failed to prove by a preponderance of the credible evidence that it had taken the required actions necessary to collect on the claim, and reversed the Respondent Agency's January, 28, 2008, demand for Petitioner to repay the overissued SNAP benefits, based on that inaction. Id. at 7; see also Exhibit R-2 at 1-6, and N.J.A.C. 10:87-11.20(n)(iv). I agree with the ALJ on this issue.

However, while I agree with the ALJ's conclusion that the Respondent Agency had failed to take necessary action to collect on the claim, I respectfully disagree with the ALJ's finding that the January 28, 2008, demand notice was defective because it purportedly did not have a due date listed for Petitioner to repay the outstanding debt. See Initial Decision at 6. Based upon my independent review of the record, I find that the notice, in fact, on page two, gave Petitioner twenty (20) days from the date of the letter to respond to the Respondent Agency, or to repay the outstanding debt. See Exhibit R-2 at 2. The 20-day timeframe for Petitioner to respond to the Agency is in line with current regulatory authority, specifically, N.J.A.C. 10:87-11.20(i)(5), which requires that the due date for repayment "shall be no later than 30 days after the dated of the initial written notification or demand letter." Accordingly, I find that the January 28, 2008, demand notice was not defective, and is, in fact, valid in accordance with current regulatory authority necessary. Furthermore, I note that, in accordance with said regulatory authority, the Agency may continue to collect on the claim through the Treasury Offset Program ("TOP"), should it choose to do so. See N.J.A.C. 10:87-11.20(i)(5). The Initial Decision is modified to reflect these findings.

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

Officially approved final version.

February 16, 2022

Natasha Johnson
Assistant Commissioner

