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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 **04146-22 L.B.**

AGENCY DKT. NO. **S619060012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner challenges the correctness of an overissuance of Supplemental Nutrition Assistance Program ("SNAP") benefits. Respondent Agency asserts that for the period beginning February, 2021, through March, 2022, Petitioner received SNAP benefits to which she was not entitled, and which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 14, 2022, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents into evidence. On June 22, 2022, the ALJ issued an Initial Decision, affirming the overissuance of SNAP benefits issued to Petitioner.

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, I hereby MODIFY the ALJ's Initial Decision, and AFFIRM the Agency determination, 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). 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 "an action or failure to take action by the [Agency]," called an "Agency Error" ("AE"). See N.J.A.C. 10:87-11.20(e)(3). Repayment of overissuances may be sought for amounts going back six years prior to 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 received an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 7-8. The record in this matter reveals that the Agency learned of unreported earned income in Petitioner's household on December 11, 2020, but took no action on that knowledge in a timely manner. *Id.* at 3, 7. Petitioner maintains that she had contacted the Agency in January, 2021, to advise of the change in household income, but was told by the person with whom she



spoke “not to worry,” and that the Agency would reach back out to her at the time of her recertification in October. Id. at 4, 7. However, Petitioner did not know the name of the person she spoke with, or the date on which she spoke with them, nor did she have any corroborating evidence to support her assertion. Id. at 7. The Agency admits and acknowledges that the overissuance is the result of the Agency having not timely acted on the information regarding the additional household income. Ibid. The ALJ in this matter found that, as the result of an AE, more specifically, the Agency not having timely acted on the knowledge of Petitioner’s additional household income, resulted in an overissuance of SNAP benefits to Petitioner in the amount of \$10,450, for the period beginning February, 2021, through March, 2022. Id. at 7; see also Exhibit RR-3. The ALJ further found that, in accordance with applicable regulatory authority, when an overpayment is discovered by the Agency, whereby a SNAP benefits recipient received benefits to which they were not entitled, the overissuance must be repaid, regardless of fault. See Initial Decision at 8; see also N.J.A.C. 10:87-11.20. Accordingly, the ALJ concluded that Petitioner was overissued SNAP benefits to which she was not entitled during the time period claimed, and as such, the Agency is entitled to recoup, and Petitioner must repay, the overissuance of SNAP benefits to which she was not eligible to receive. See Initial Decision at 8; see also N.J.A.C. 10:87-11.20(b), (e)(3). I agree.

Additionally, the transmittal in this matter indicates that Petitioner was also appealing a May 9, 2022, denial of SNAP benefits for failure to provide required verification in order to determine eligibility. See Exhibit R-8. However, the Initial Decision states that Petitioner is no longer contesting that denial, and as such, that issue is deemed withdrawn and therefore moot. See Initial Decision at 2, 4. The Initial Decision is modified to reflect this finding.

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

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

Officially approved final version.

July 13, 2022

Natasha Johnson
Assistant Commissioner

