



## State of New Jersey

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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 **04915-21 M.K.**

AGENCY DKT. NO. **C117593016 (PASSAIC COUNTY BOARD 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. The initial pre-hearing conference was scheduled for July 8, 2021, but was adjourned. Pre-hearing conferences were then held on August 4, 2021, September 28, 2021, and November 18, 2021. On January 13, 2022, the Honorable Matthew Miller, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents into evidence. The record was left open until January 28, 2022, for the submission of additional documentation, after receipt of which, the record then closed. On February 9, 2022, the ALJ issued an Initial Decision, affirming the Agency's determination, but reducing the amount of overissued SNAP benefits that Respondent may recoup from Petitioner.

Exceptions to the Initial Decision were filed by both Petitioner, and the Respondent Agency, on February 14, 2022.

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 ADOPT the ALJ's Initial Decision, and MODIFY 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).

Any earned income that is not reported in a timely manner by a household, is not entitled to an earned income deduction ("EID"). See N.J.A.C. 10:87-11.20(f)(1)(ii)(2).



The [Agency] shall calculate a claim back to at least 12 months prior to when it becomes aware of the overpayment. . . . For all claims, do not include any amounts that occurred more than six years before the [Agency] **became aware of the overpayment**. See N.J.A.C. 10:87-11.20(f)(1)(iii) (emphasis added).

Here, the record reflects that on or around January 20, 2020, Petitioner's attorney provided a letter from Petitioner's ex-spouse, advising the Agency that since July 1, 2013, Petitioner had been receiving spousal support in the amount of \$400 per month, and also \$400 per month in child support. See Initial Decision at 2; see also Exhibits P-1, R-1(1)(g). As a result of the letter from Petitioner's ex-spouse, on January 22, 2020, the Agency referred Petitioner's case to be investigated for a possible overissuance of SNAP benefits paid to Petitioner. See Initial Decision at 2; see also Exhibit R-1(1)(d). Specifically, the Agency's investigation focused on Petitioner's failure report the income from child support and spousal support, which she had received for the period beginning January, 2014, through September, 2019. See Initial Decision at 5; see also Exhibit R-1(1)(d). On April 28, 2021, the Agency concluded its investigation. See Initial Decision at 5; see also Exhibit R-1(1)(d) at 2. On May 3, 2021, the Agency notified Petitioner that for the periods beginning January, 2014, through September, 2014, November, 2014, through August, 2017, February, 2018, through July, 2018, and October, 2018, through September, 2019, due to an IHE, she had received overissuances of SNAP benefits in the total amount of \$11,444. See Initial Decision at 2; see also Exhibit R-1(1)(c), and N.J.A.C. 10:87-11.20(i)(1), (2). Notably, the ALJ found that the Agency's investigation was more complicated because the household size varied, but the materials submitted were an accurate reflection of the investigative materials and report, and the \$11,444 resultant figure is correct. See Initial Decision at 6.

Petitioner contends that the Agency established the overissuance claim on May 3, 2021, when it issued a Notice to Repay Overissued SNAP Benefits to Petitioner, which, given the six-year look back period, as defined at N.J.A.C. 10:87-11.20(f)(1)(iii) and referenced above, eliminates the claims beginning January, 2014, through March, 2015. See Initial Decision at 9; see also Exhibit R-1(1)(c). This would reduce the amount of overissued SNAP benefits the Agency sought to recover from Petitioner to \$6,759 (\$11,444 - \$4,685). See Initial Decision at 13; see also Exhibit R-1(1)(c). The Agency argues that January 20, 2020, the date it received Petitioner's ex-spouse's letter, and the date it commenced its investigation of Petitioner's household income, is when it became aware of the overpayment, and from where the six-year look back period begins, thus making Petitioner responsible to repay the entire balance of \$11,444, dating back to January, 2014, as listed in Notice to Repay Overissued SNAP Benefits. See Initial Decision at 10; see also Exhibit R-1(1)(c).

Based on the documentary evidence and testimony presented, the ALJ found that April 28, 2021, is the date the Agency became aware of overpayment, pursuant N.J.A.C. 10:87-11.20(f)(1)(iii), and that the six-year look back period began April, 2015. See Initial Decision at 12, 15. The ALJ further found that April 28, 2021, is the date the Agency definitively determined, at the conclusion of its investigation, that, as a result of Petitioner's failure to report income from child support and spousal support payments, she had received an overissuance of SNAP benefits. Ibid.; see also Exhibit R-1(1)(d). Accordingly, the ALJ revised the Agency's Notice to Repay Overissued SNAP Benefits, reducing the amount of SNAP benefits Petitioner must repay to \$6,759, reduced from the original amount sought by the Agency of \$11,444, for the shortened time period, now beginning April, 2015, through September, 2019. See Initial Decision at 15; see also Exhibit R-1(1)(c), and N.J.A.C. 10:87-5.5(a)(5). I agree with the ALJ on this issue.

The ALJ also found that the Agency has proven, by a preponderance of the credible evidence, that Petitioner committed an IHE, and not an Agency Error. See Initial Decision at 15; see also N.J.A.C. 10:87-11.20(f)(1)(ii)(2). The ALJ found that Petitioner's testimony lacked credibility, and that contrary to her testimony, she did not timely report her spousal support. See Initial Decision at 14. Accordingly, the ALJ concluded that there was insufficient evidence to support any conclusion other than Petitioner committed an IHE, and therefore, was not entitled a 20% earned income deduction on the overpayment. I agree with the ALJ on this issue as well.



By way of comment, I have reviewed Petitioner's and the Respondent Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

By way of further comment, only one adjournment may be granted in SNAP fair hearings, which shall not exceed 30 days. See N.J.A.C. 10:87-8.6(a)(4)(i) and N.J.A.C. 1:10-9.1(b). It should be noted that two adjournments in this case extended well beyond the permissible maximum of 30 days.

I order and direct the Agency to recoup the overissuance of SNAP benefits, in the amount of \$6,759.

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

Officially approved final version.

April 18, 2022

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Natasha Johnson  
Assistant Commissioner

