



## State of New Jersey

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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 **05267-22 N.M.**

AGENCY DKT. NO. **C427165016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's termination of Supplemental Nutrition Assistance Program ("SNAP") benefits, at recertification. The Agency terminated Petitioner's SNAP benefits at recertification due to excess income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 11, 2022, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open for Petitioner to submit additional documents and then closed on August 22, 2022. Also on August 22, 2022, the ALJ issued an Initial Decision, reversing the Agency's termination and directing the matter be returned to the Agency to recalculate Petitioner's SNAP eligibility as of January 2022.

Exceptions to the Initial Decision were filed by the Agency on August 24, 2022.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, as discussed below.

N.J.A.C. 10:87-2.19(k)(1) The agency shall obtain verification of the household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays.

Effective November 1, 2013, child support payments would no longer be treated as a SNAP deduction, but rather, as an income exclusions. See DFD Instruction ("DFDI") 13-10-09. N.J.A.C. 10:87-5.9 delineates those items which are excludable from income for SNAP eligibility purposes. With respect to child support payments, N.J.A.C. 10:87-5.9(a)(20) states, in pertinent part, "All legally obligated or court-ordered child support payments paid by a household member to, or on behalf of, a non-household member, including payments to a third party on behalf of the non-household member and amounts paid toward arrearages."



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 survivors, disability, and Social Security benefits for both adults and children in the household. See N.J.A.C. 10:87-5.5(a)(2).

In order to determine an applicant's eligibility for SNAP, the applicant's income and resources must be below a certain threshold. In accordance with N.J.A.C. 10:87-6.16(d)(1), households which contain an elderly or permanently disabled individual, as defined by N.J.A.C. 10:87-2.34, must meet the net income test for SNAP eligibility. N.J.A.C. 10:87-6.16(d)(2), states that households that do not contain an elderly or permanently 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.

In the present matter, the ALJ disagreed with the Agency's calculation of Petitioner's earned income, due to the inclusion of a week of income which was substantially more than the other three weeks of income in January 2022, thereby rendering the household over the gross income eligibility threshold. See Initial Decision at 2, 3. While I agree with ALJ's conclusion that this matter needs to be returned to the Agency to recalculate Petitioner's income for SNAP eligibility purposes, the basis for doing so differs. Initially, I note that I do not disagree with the Agency's inclusion of the higher week of income in determining an average income amount, but it is unclear from the record presented how the Agency reached an average weekly earned income amount of \$630. See Exhibit R-1 at 7, 19, 20; see also Exhibit P-1 at 31, 39, and N.J.A.C. 10:87-6.9(d). Additionally, as referenced and cited above, child support payments are now to be treated as an income exclusion, rather than a deduction, which was what the Agency had done in this matter. See Exhibit R-1 at 19, 20, 21; see also N.J.A.C. 10:87-5.9(a) (20) and DFDI 13-10-09. Also, the amount of child support payment utilized by the Agency, clearly does not include arrearages being paid. *Ibid.*; see also Exhibit P-1 at 27. As Petitioner's household contains individuals who are deemed disabled, Petitioner only need meet the net income eligibility threshold. See N.J.A.C. 10:87-6.16(d)(1). Taking these factors into consideration, after a cursory review, it does appear that once a recalculation is done, Petitioner's household may possibly be entitled to SNAP benefits, although in a reduced amount, and as such, I am remanding the matter to the Agency for a recalculation of Petitioner's SNAP benefits eligibility. If Petitioner is determined to be eligible for SNAP benefits, Petitioner is to be provided with retroactive benefits to the effective date of termination. See N.J.A.C. 10:87-8.18. Should the reevaluation of Petitioner's SNAP eligibility result in a denial of said benefits, Petitioner may request another fair hearing on that substantive denial. The Initial Decision is modified to reflect these findings.

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

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's determination is hereby REVERSED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

October 18, 2022

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Natasha Johnson  
Assistant Commissioner

