



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
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 **08506-21 R.W.**

AGENCY DKT. NO. **C110995015 (OCEAN COUNTY BOARD OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's reduction of the household's monthly Supplemental Nutrition Assistance Program ("SNAP") benefits allotment. Petitioner's monthly household SNAP benefits allotment was reduced as a result of a recalculation for benefits eligibility, which did not exclude from the household's income, monthly housing assistance payments Petitioner was receiving towards the household's residential mortgage expense. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. The matter was scheduled for a telephonic plenary hearing on December 2, 2021, before the Honorable David M. Fritch, ("ALJ"). At the hearing, Petitioner's counsel indicated that they wished to file a motion for summary decision, and to have the case decided on the papers. A mutually agreeable briefing was then set. Petitioner's counsel filed the motion for summary decision on December 16, 2021. The Agency filed its opposition to the motion on January 14, 2022. In accordance with applicable regulatory authority, governing motions for summary decision before the OAL, the motion record then remained open for an additional ten days to allow Petitioner's counsel to file a reply to the Agency's opposition, and the record then closed on January 25, 2022. See N.J.A.C. 1:1-12.5(b).

On February 2, 2022, the ALJ issued an Initial Decision on the motion for summary decision, denying the motion, and affirming the Agency's reduction of Petitioner's monthly SNAP benefits allotment. In the Initial Decision, the ALJ first reviewed the standard for when a case is ripe for summary decision, namely that there existed no disputed issue of material fact, and then found that the matter was indeed ripe for summary disposition. See Initial Decision at 5-6. The ALJ next turned to the contested legal issue in the case, more specifically, the treatment by the Agency of Petitioner's housing assistance payments from the Lakewood Township Residential Assistance Program ("LTRAP"), as unearned income in the SNAP benefits calculations. *Id.* at 6. Petitioner asserted that the LTRAP housing assistance payments, made to a management company at Petitioner's direction, and not as a requirement of the mortgage lending bank, should be excluded from income as vendor payments. *Id.* at 4, 11. Following a thorough and comprehensive analysis, covering applicable New Jersey regulatory authority, as well as federal law, and relevant caselaw, including a recent Final Decision issued by this office on an analogous case, the ALJ concluded that the LTRAP housing payments, instead of being paid directly to Petitioner, were



diverted to a management company at Petitioner's request and direction. Id. at 6-10. The ALJ further concluded that the management company then forwarded the mortgage payment to the lending bank, and doing so did not constitute vendor payments, which could be excluded from income, and therefore, were properly included as unearned income in Petitioner's SNAP benefits eligibility calculations. Id. at 11-14. As the ALJ in this matter poignantly stated, "[I]t is important to note that the Petitioner's action in diverting these housing payments to a third-party intermediary under the circumstances presented here does not diminish their control over the funds or otherwise place these LTRAP payments within the defined exclusion carved for third-party payments Under the current payment arrangement, [the management company] is not a third-party payee of these funds, but rather merely a strawman acting as a pass through for Petitioner's LTRAP funds who receives and subsequently dispenses these funds in the matter as directed by the Petitioner under the terms of their contractual agreement. These housing funds are not being "paid" to [the management company], but rather diverted to [the management company] for them to further direct the funds at the direction of the Petitioner[.]" Id at 13. Following the above referenced detailed and comprehensive analysis, the ALJ concluded that Petitioner's motion for summary decision should be denied, and, as the only contested issue in the case was fully disposed of through the Initial Decision, the ALJ affirmed the Agency's inclusion of Petitioner's LTRAP housing assistance payments as unearned income in the SNAP benefits eligibility calculations, and the resultant reduction of Petitioner's monthly SNAP benefits allotment. Id. at 14; see also N.J.A.C. 10:87-5.9(a)(2)(iv). I agree.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the Initial Decision in this matter, and following an independent evaluation of the record, I fully concur with the ALJ's Initial Decision and hereby ADOPT the Findings of Fact and Conclusion of Law in this matter.

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

Officially approved final version.

May 17, 2022

Natasha Johnson
Assistant Commissioner

