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Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **05773-20 C.J.**

AGENCY DKT. NO. **C133128003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner challenges the Respondent Agency's demand to repay overissuances of Supplemental Nutrition Assistance Program ("SNAP"), and Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF"), benefits. The Agency demands that Petitioner repay overissued SNAP and WFNJ/TANF benefits that she received, and was not entitled to receive, because she had failed to timely report household earned income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 24, 2020, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents into evidence. The record then closed on August 27, 2020, following receipt of post-hearing submissions. On September 10, 2020, the ALJ issued an Initial Decision, affirming the Agency's action to recoup overissued WFNJ/TANF benefits Petitioner received, and reversing the Agency's action to recoup overissued SNAP benefits from Petitioner.

Exceptions to the Initial Decision were filed by the Agency on September 29, 2020.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter, and I hereby ADOPT in part, and REJECT in part, the Initial Decision, and AFFIRM the Agency determination, based upon the discussion below.

In the instance of an overpayment of SNAP 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 is caused by a misunderstanding or unintended error on the part of the household, called an Inadvertent Household Error ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Another type of overpayment which is subject to recoupment is one which results from "an action or failure to take action by the [Agency]," referred to as an Agency Error ("AE"). See N.J.A.C. 10:87-11.20(e)(3). IHE and AE claims are calculated back to at least 12 months prior to when the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i). For all claims, including IHE and AE claims, amounts that occurred more than six years before the Agency became aware of the overpayment, are not included. Ibid. (Emphasis added.)

The [SNAP overissuance] claim shall be considered established for tracking purposes as of the date the initial demand letter or written notification has been mailed or delivered. See N.J.A.C. 10:87-11.20(i)(2). The Agency shall establish a claim even if the claim cannot be established within the timeframe outlined in the regulations. See N.J.A.C. 10:87-11.20(g)(1).

As it relates to WFNJ, an overpayment means "a financial assistance payment (including emergency assistance ["EA"]) received by or for an eligible assistance unit for the payment month(s) which exceeds the amount for which that unit was eligible." See N.J.A.C. 10:90-3.21(a). The county or municipal agency shall seek recovery of all overpayments (including



EA) regardless of fault, including overpayments resulting from assistance paid pending hearing decisions. See N.J.A.C. 10:90-3.21(a)(1).

On November 13, 2013, Petitioner, a SNAP and WFNJ/TANF benefits recipient, completed an Interim Reporting Form ("IRF"). See Initial Decision at 4; see also Exhibit R-2. After reviewing Petitioner's IRF, the Agency discovered that Petitioner's spouse, R.J., was employed. See Initial Decision at 3. On January 16, 2014, the Agency requested copies of R.J.'s paystubs. See Initial Decision at 4; see also Exhibit R-4. In response to the Agency's request, on January 21, 2014, Petitioner provided copies of R.J.'s paystubs, dated January 3, 2014, and January 17, 2014. See Initial Decision at 4; see also Exhibit R-3. The Agency determined that Petitioner did not report R.J.'s employment income while the household received SNAP and WFNJ/TANF benefits, and, as a result, received an overissuance of SNAP and WFNJ/TANF benefits to which the household was not entitled. See Initial Decision at 4; see also Exhibits R-5, R-6. On February 5, 2014, the Agency notified Petitioner that, effective March 1, 2014, her monthly SNAP benefit would be reduced to \$808, and that her monthly WFNJ/TANF benefit would be reduced to \$250. See Initial Decision at 4; see also Exhibit R-1, and N.J.A.C. 10:87-6.16, and N.J.A.C. 10:90-3.6.

On June 29, 2020, the Agency notified Petitioner that from December, 2013, through February, 2014, as the result of an IHE and AE, she received an overissuance of WFNJ/TANF and SNAP benefits to which she was not entitled to, and issued notices to Petitioner advising her of the overissued WFNJ/TANF and SNAP benefits it sought to recoup, in the total amount \$4,638 (\$1,791 [WFNJ/TANF] + \$2,848 [SNAP]). Ibid.; see also Exhibits P-2, P-3.

The ALJ found that, with regard to the SNAP benefits, more than six years had passed from the time the Agency became aware of the overpayment of SNAP benefits, until it sought repayment of the overissued SNAP benefits, on June 29, 2020. See Initial Decision at 5; see also Exhibit P-3. The ALJ then concluded that the Agency's action to recoup the overissued SNAP benefits provided to Petitioner beginning December, 2013, through February, 2014, was not appropriate because repayment of overissuances cannot include any amounts that occurred more than six years before the Agency became aware of the overpayment. See Initial Decision at 7-8; see also N.J.A.C. 10:87-11.20(f)(1)(i). The ALJ then reversed the Agency's action seeking repayment of SNAP benefits from Petitioner. See Initial Decision at 10; see also Exhibit P-3.

Regarding the WFNJ/TANF benefits paid to Petitioner between December, 2013, through February, 2014, the ALJ concluded that the Agency's demand for repayment was proper, since the Agency is required to collect on all claims for overpayments. See Initial Decision at 10; see also Exhibit P-2, and N.J.A.C. 10:90-3.21(a)(1).

Following an independent review of the record, while I agree with the ALJ's conclusion affirming the Agency's action seeking repayment of the overissued WFNJ/TANF benefits issued to Petitioner, I respectfully disagree with the ALJ's conclusion reversing the Agency's action seeking to recoup the overissued SNAP benefits Petitioner had received, and I find that the Agency may, in fact, recoup the SNAP benefits that were issued to Petitioner beginning December, 2013, through February, 2014, totaling \$2,848.

As it relates the overissuance of SNAP benefits received by Petitioner, the regulatory authority upon which I reject the ALJ's Initial Decision, is cited above, at N.J.A.C. 10:87-11.20(f)(1)(i). I interpret this language as instructing the Agency that, in its efforts to recoup overissued benefits, the Agency must calculate the claim amount dating back six years before it [the Agency] discovered the overpayments, and cannot include any benefit amount issued before the six-year period started. I also interpret the regulations to mean that pursuant to N.J.A.C. 10:87-11.20(g)(1), also cited above, every claim to recover overissued benefits, must be pursued by the Agency, with the only limitation being that the amount of the claim must not include any benefit amounts older than six years before the Agency became aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

In this matter, while the ALJ's finding of the date the Agency became aware of the overpayment is not clearly defined, it appears that the ALJ used either January 16, 2014, the date the Agency requested Petitioner to provide copies of R.J.'s paystubs, or February 5, 2014, the date the Agency notified Petitioner that her WFNJ/TANF and SNAP benefits were being reduced, as the date the Agency became aware of the overpayment. See Initial Decision at 7. The ALJ found that the date the Agency established the overissuance claim was June 29, 2020, and using either January 16, 2014, or February 5, 2014, concluded the overissuances cannot include any amounts that occurred more than six years before the Agency became of the overpayment. Id. at 7-8. I disagree with the ALJ because when using either of those two dates, regulatory authority permits the Agency to include any amount that was issued within the six years before the Agency became aware of the overpayment. In addition, the claim must be pursued, as all claims must be established even if the claim cannot be established within the timeframe outlined in the regulations. See N.J.A.C. 10:87-11.20(g)(1).

In this matter, I have concluded that the three SNAP overpayments totaling \$2,848: \$1,109 in December, 2013, \$1,109 in January, 2014, and \$630 in February, 2014, may be recouped by the Agency, as those benefit payments, when using



either January 16, 2014, or February 5, 2014, as the date the Agency became aware of the overpayment, are not older than six years prior to the date when the Agency became aware of the overpayment. See Initial Decision at 4, 5; see also Exhibit R-6. As none of the payments were issued more than six years before the Agency became aware of the overpayments, those benefit payment amounts must be included in the total claim amount, and therefore, are subject to recoupment as part of the claim. Accordingly, I conclude that the June 29, 2020, demand notice to Petitioner to recoup the overissued SNAP benefits is not rescinded, and thus, the Agency may recoup that overissuance. See Exhibit P-3.

Accordingly, I AFFIRM the Agency's determination to recoup the WFNJ/TANF benefits Petitioner was not entitled to receive, and I REJECT the ALJ's decision denying the Agency's action seeking to recover overissued SNAP benefits issued to Petitioner. I further ORDER the Agency to recoup the SNAP benefits issued Petitioner for the period beginning December, 2013, through February, 2014, totaling \$2,848, in accordance with the June 29, 2020, notice to recoup those SNAP benefits. See Exhibit P-3.

By way of comment, pursuant to applicable regulatory authority, the Respondent Agency may compromise the SNAP overissuance claim, or any portion of it, if it can reasonably be determined that Petitioner's household economic circumstances dictate the claim will not be paid in three years. See N.J.A.C. 10:87-11.20(m); see also C.F.R. 273.18(e) (7). Petitioner shall contact the Agency, and the Agency shall consider Petitioner's request, in accordance with the dictates of N.J.A.C. 10:87-11.20(m).

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

Based upon the foregoing, the Initial Decision in this matter is ADOPTED in part, and REJECTED in part, and the Agency's determination is AFFIRMED, as outlined above.

Officially approved final version. June 16, 2025

Natasha Johnson
Assistant Commissioner

