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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 **02068-26 D.G.**

AGENCY DKT. NO. **C132128015 (OCEAN COUNTY BOARD OF SOC. SVCS.)**

Petitioner challenges the correctness of the Respondent Agency's calculation of his monthly Supplemental Nutrition Assistance Program ("SNAP") benefits allotment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. The hearing in this matter was originally scheduled for March 13, 2026, at which time an adjournment was granted. On March 26, 2026, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was then held open until May 26, 2026, to allow for the submission of additional documentation and filings. On June 9, 2026, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were received from Petitioner's counsel on July 7, 2026.

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 ADOPT the ALJ's Initial Decision, and AFFIRM the Agency's determination, based on the discussion below.

Regulatory authority applicable to SNAP benefits cases, defines income as "all income from whatever source unless such income is specifically excluded." See N.J.A.C. 10:87-5.3.

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.

N.J.A.C. 10:87-6.16(b) further outlines the procedures used to calculate both gross and net income for SNAP benefits purposes, and the applicable benefit levels, if eligible. The regulation provides that the applicant's monthly net income is determined by adding together all earned and unearned income, then subtracting all income exclusions. Then, the standard deduction, based upon the size of the household, is subtracted from the income.

Thereafter, the household is evaluated to determine if a medical deduction is appropriate, which is if the household has medical expenses that exceed \$35.00. If the household is entitled to a medical deduction, then the amount in excess of \$35.00 is subtracted from the applicant's income. Then, the applicant is evaluated for an excess shelter deduction. Such a deduction is permitted when the individual's shelter costs exceed 50% of their net income. If this deduction



is allowable, then the difference between the shelter costs and the 50% net income, or up to the maximum allowable amount, is subtracted from the individual's income. The remaining figure is Petitioner's net income for SNAP benefits purposes. This net income is then compared against the maximum allowable net income amount for the household's size, as outlined at N.J.A.C. 10:87-12.3, to determine eligibility. If eligible, the household's monthly SNAP allotment shall be equal to the maximum food stamp allotment for the household's size, reduced by 30 percent of the household's net monthly income. See N.J.A.C. 10:87-12.6(a)(1).

Here, the record reflects that Petitioner's household consists of himself, his spouse, and four children. See Initial Decision at 2. Petitioner was a full-time student in an advanced degree academic program during the Fall 2025 semester. *Ibid.*; see also Exhibit R-3. Petitioner received a monthly scholarship of \$1,100 from his educational institution, as well as two biannual scholarships of \$850 each. See Initial Decision at 3; see also Exhibit R-3. Petitioner thereafter utilized a portion of his scholarship money to pay for his own transportation to and from the educational institution. See Initial Decision at 3. The scholarship monies were additionally utilized to pay private school tuition for three of his children. *Ibid.*

On September 25, 2025, Petitioner's application for SNAP benefits was approved, in the amount of \$55 per month, beginning October 1, 2025. See Initial Decision at 3; see also Exhibit R-1. At that time, the Agency excluded the portion of Petitioner's scholarship used for his own transportation to and from the educational institution pursuant to N.J.A.C. 10:87-5.11, which allows income used for school-related expenses to be excluded when calculating SNAP benefits. *Ibid.* Separately, the Agency determined that the portion of Petitioner's scholarship utilized to pay his children's private school tuition could not be excluded as countable income as there was no evidence presented that the private school tuition payments were required as part of Petitioner's educational endeavors. *Ibid.*

Petitioner contends that, in order for him to attend his classes, he must expend funds to pay for his children's private school tuition and that his children are unable to attend public school due to their religious educational needs and accommodations. See Initial Decision at 3; see also Pet. Brief at 2. In December, 2025, Petitioner sought guidance from the Federal Food and Nutrition Service ("FNS") as to whether the scholarship funds "qualify as an excludable expense under 7 CFR 273.9(c)(3), given that the funds are not earmarked and the [tuition] expense is neither room nor board." See Initial Decision at 4; see also Exhibit P-1. On February 4, 2026, FNS provided an email response to Petitioner's inquiry. See Initial Decision at 4-5; see also Exhibit P-2. In part, the email from FNS read, "Therefore, the educational assistance the individual receives and uses for their child's private school tuition expenses in order to attend their classes may be excluded as miscellaneous personal expenses if the funds meet the other requirements in 7 CFR 273.9(c)(3)." See Initial Decision at 5; see also Exhibit P-2.

Pursuant to N.J.A.C. 10:87-5.9, educational scholarships shall be excluded if the criteria found in N.J.A.C. 10:87-5.11 is met, and, in analyzing such regulation, Petitioner's educational program is a qualifying program pursuant to section (b). See Initial Decision at 5-6. Next, the scholarship "must also be used for or identified (earmarked) by the institution, program, or other grantor for" the enumerated "allowable expenses." See Initial Decision at 6; see also N.J.A.C. 10:87-5.11(c). The Federal language of 7 C.F.R. 273.9(c)(3) mirrors the state regulation.

In this matter, Petitioner contends that the private school tuition payments are "miscellaneous personal expenses" under N.J.A.C. 10:87-5.11(c)(6), as the payments are incidental to his education since his children must attend school in order for him to attend his educational institution. See Initial Decision at 7. Petitioner further contends that his position is bolstered by the email response he received from FNS. *Ibid.* In opposition, the Agency contends that the scholarship funds are not excludable from the household's income as there is no evidence presented that Petitioner's educational pursuits are contingent upon his children attending private school. See Initial Decision at 7. The Agency specifically delineates that the funds for payment of private school tuition are separate and distinct from payments for childcare or daycare expenses, as compulsory attendance requirements are applicable and it is Petitioner who has chosen for his children to attend private school. *Ibid.*; see also N.J.S.A. 18A:38-25 and N.J.A.C. 10:87-5.11(c)(8).

Pursuant to N.J.A.C. 10:87-5.11(c)(8), to be excludable from income, a miscellaneous personal expense that is not a normal living expense, such as room and board, must be incidental to the SNAP recipient's attendance at a school, instruction, or program. See Initial Decision at 7. The term "incidental," however, is not defined within either State or Federal regulation, and the ALJ did not find that any relevant case law was presented regarding such definition. See Initial Decision at 7-9. The ALJ found that, based upon the compulsory school statute at N.J.S.A. 18A:38-25, that the children, based upon their ages, must attend school, a requirement that exists regardless of Petitioner's educational program enrollment. See Initial Decision at 9. Based on the foregoing, the ALJ found that the children's private school education is not incidental to the Petitioner's educational pursuits as "their schooling and tuition is not dependent upon, subordinate to, arising out of, or otherwise connected with" his educational status. *Ibid.* Accordingly, the ALJ found that the miscellaneous expense of the Petitioner's private school tuition is not incidental to his educational because it is independent of such pursuit, and that the scholarship funds used to pay for Petitioner's private school tuition is not



excludable from the household's income for purposes of determining the household's SNAP benefit amount. See Initial Decision at 10; see also N.J.A.C. 10:87-5.11(c), 7 C.F.R. 273.9(c)(3).

N.J.A.C. 10:87-5.9(a)(7) sets forth that "Educational loans on which payment is deferred, grants, work study, scholarships, fellowships, veteran's educational benefits and the like shall be excluded, provided it meets the criteria at N.J.A.C. 10:87-5.11" when identifying income exclusions for purposes of SNAP benefits. Turning to N.J.A.C. 10:87-5.11(c), in order to be excluded, the education assistance must be used or identified (earmarked) by the institution for the delineated allowable expenses. For clarity, I note that the advice sought from FNS by Petitioner indicated that the funds were being "used for private school tuition for child supervision," and also cites to 7 C.F.R. 273.9(d)(4) regarding dependent care costs. There is a distinction in the regulations regarding dependent care costs, see also N.J.A.C. 10:87-5.11(c)(8), which must be recognized and considered when interpreting the response from FNS.

Based on the foregoing, the ALJ concluded that the Agency had properly calculated Petitioner's monthly SNAP benefits allotment in this matter. See Initial Decision at 9. I agree.

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

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

Officially approved final version. September 04, 2026

Natasha Johnson
Assistant Commissioner

