



*State of New Jersey*

**DEPARTMENT OF HUMAN SERVICES**

Division of Family Development  
P.O. Box 716  
TRENTON, NEW JERSEY 08625

Chris Christie  
*Governor*

Kim Guadagno  
*Lt. Governor*

Elizabeth Connolly  
*Acting Commissioner*

Natasha Johnson  
*Director*  
Tel. (609) 588-2400

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 13234-15 G.E.

AGENCY DKT. NO. C129411 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's reduction of his Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits on recertification. The Agency reduced Petitioner's SNAP benefits due to the household's countable income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 13, 2015, the Honorable John F. Russo, Administrative Law Judge ("ALJ"), held a plenary hearing, whereupon the parties agreed to have the case decided on the papers in accordance with N.J.A.C. 1:1-14.8. Following submission of briefs, on October 20, 2015, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to this Initial Decision were filed.

As the Director of the 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 REJECT the ALJ's decision and AFFIRM on other grounds the Agency's determination.

Income is defined as all income, from whatever source, unless specifically excluded under the provisions of N.J.A.C. 10:87-5.9. See N.J.A.C. 10:87-5.1. Specifically, the regulations provide a definition for both earned and unearned income under N.J.A.C. 10:87-5.4 and -5.5 respectively. Unearned income includes, among other things, "All other direct money payments from any source which can be construed to be a gain or benefit to the household". See N.J.A.C. 10:87-5.5(a)(9).

Here, the income resource at issue is a series of cash deposits derived from a brokerage account held jointly by Petitioner and his wife. See initial Decision at 2; see also Exhibit R-6. The brokerage account statement describes the account as a money market mutual fund. See Exhibit R-6 at 7. The stated goal of the account is to preserve the value of the investment at \$1.00 per share, however, the investment is not guaranteed and can lose principal due to market fluctuations. *Id.* at 8.

Based on a review of the relevant regulations presented above, the fund at issue meets both the definition of a household resource and unearned income. The underlying assets in the fund are equity holdings, and thus meet the definition of a household resource under the regulations. In addition, because the payments transferred from the mutual fund account to Petitioner's checking account is a benefit to the household, that is not otherwise specifically found in the income exclusions listed in N.J.A.C. 10:87-5.9, the money conferred is unearned income for Petitioner's household.

Therefore, I disagree with the ALJ's conclusions that the money withdrawn from the brokerage account is a resource and not countable income. The ALJ's conclusion that SNAP regulations "do not provide that monies withdrawn from investment accounts other than 401(k) accounts, Keough accounts, and individual retirement accounts are countable income" is incorrect. N.J.A.C. 10:90-5.9(a) explicitly uses limiting language stating, "Only the following shall be excluded from household income; no other income shall be excluded." Because the term "money market mutual fund" or any other derivation of the word or concept is not listed under the listed exclusions, it follows that it must be included as income.

Accordingly, the Initial Decision in this matter is hereby REJECTED and the Agency's determination is AFFIRMED on other grounds.

*Signed Copy on File*

at DFD, BARA

DEC 29 2015

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Natasha Johnson  
Director