



State of New Jersey

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 11019-14 G.Z.

AGENCY DKT. NO. C101141 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of his application for Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits. The Agency denied Petitioner SNAP benefits as it contended that Petitioner's income exceeded the maximum permissible income level for receipt of benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 19, 2014, the Honorable Joann Lasala Candido, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence.

On September 26, 2014, the ALJ issued her Initial Decision, affirming the Agency's determination. The ALJ found that the credible evidence presented in the matter substantiated the Agency's position that Petitioner's income exceeded the applicable threshold limit for receipt of benefits, thereby rendering Petitioner ineligible for benefits. See Initial Decision at 4-6.

Exceptions to this Initial Decision were filed by Petitioner on October 14, 2014.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision and following an independent review of the record, I concur with the ALJ's ultimate conclusion that the Agency properly denied Petitioner SNAP benefits, although, as outlined below, the numbers I obtained to reach that conclusion differ from those of the ALJ.

The New Jersey SNAP Program, is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households. See N.J.A.C. 10:87- 1.1(a). In order to determine an applicant's eligibility for SNAP, the applicant's income and resources must be below a certain threshold. N.J.A.C. 10:87-6.16 outlines the procedures used to calculate net income and benefit levels for SNAP recipients. 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 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 is subtracted from the individual's income. The remaining figure is Petitioner's net income. The household's net income is then compared to the table outlined at N.J.A.C. 10:87-12.3 to determine the amount of SNAP benefits that the Petitioner is entitled to receive.

Petitioner in this matter is 62 years of age. Pursuant to N.J.A.C. 10:87-2.34(a)(1), Petitioner is therefore considered to be elderly. In the chapter pertaining to financial eligibility, N.J.A.C. 10:87-5.1(a) states, "[SNAP] households that contain an elderly person ... shall meet the net income eligibility standards in N.J.A.C. 10:87-12.3." This means that the SNAP household's net income must be calculated through the procedure outlined above in N.J.A.C. 10:87-6.16 and that net income amount compared to the maximum net income amount permissible pursuant to 7 C.F.R. 273.9, which states that the net income eligibility standards for SNAP are the Federal income poverty levels for the 48 continuous States and the District of Columbia. These amounts are published October 1 of each year and then reflected in a DFD Instruction ("DFDI"). The amounts in effect at the time of Petitioner's application in June of 2014 can be found in DFDI 13-10-06 at Table III. I note that the applicable Maximum Allowable Net Income for a household size of one person is \$958.

Next, the procedure outlined in N.J.A.C. 10:87-6.16 is to be followed to determine the household's net monthly income. The first number in this calculation is to establish earned income for the household. As Petitioner is self-employed, the number to plug into the beginning step of -6.16 is established by N.J.A.C. 10:87-7.2, -7.3 and -7.5. N.J.A.C. 10:87-7.3 instructs that monthly income from self-employment is determined by adding gross income, exclude costs of producing the self-employment income (defined at N.J.A.C. 10:87-7.5), and the remainder averaged over the appropriate number of months. In the present matter, the Agency utilized an average of the three months of income prior to Petitioner's application in

order to establish an anticipated monthly earnings amount as directed by DFDI

10-1-3, or \$817. See Exhibit R-2. In reviewing N.J.A.C. 10:87-7.5 to determine if there are any allowable costs of producing self-employment income, I find that Petitioner has not provided verification that any of his expenses meet the allowable costs of producing self-employment income as outlined in subsection (a). Moreover, the estimated transportation expense contained in Exhibit P-1, is clearly not allowable as a cost, as stated in subsection (b) of the regulation. The additional estimated expenses proposed by Petitioner are based upon Petitioner's 2013 tax return. However, none of these are verifiable, and do not appear to fall within the allowable categories outlined in subsection (a). I note, for the benefit of Petitioner, that expenses that may be considered under the Federal Income Tax regulations clearly differ from those which are allowable under the SNAP regulatory scheme. N.J.A.C. 10:87-7.3 then indicates that the net self-employment income, which I agree with the Agency is \$817, is then "added to any other earned income received by the household to determine total monthly earned income." Petitioner has no additional earned income and as such, \$817 is the total monthly earned income.

Taking the \$817 as the monthly earned income amount, and continuing with the calculations outlined in N.J.A.C. 10:87-6.16(b)(1) to determine the household's net monthly income, that amount is then multiplied by 80 percent, see N.J.A.C. 10:87-6.16(b)(2), or \$654. Next, to that amount is added the total monthly unearned income of the household. Unearned income is defined in N.J.A.C. 10:87-5.5. While both the Agency and the ALJ correctly utilized Petitioner's R.S.D.I. monthly benefit of \$1381, I note that Petitioner also receives distributions from an Individual Retirement Account ("IRA"), see Exhibit P-1, which is also considered unearned income for SNAP purposes. See N.J.A.C. 10:87-5.5(a)(2). The amount distributed as of June 30, 2014, the first half of the year was \$5500, and averages to \$917 a month. Therefore, the total monthly unearned income amount is \$1381 and \$917, or \$2298. That amount is then added to the monthly earned income for a total of \$2952, see N.J.A.C. 10:87-6.6(b)(3). A standard deduction is then subtracted from that amount. See N.J.A.C. 10:87-6.16(b)(4). The standard deduction for a household of one person is \$152, which, after subtracted from \$2952 leaves \$2800. The record indicates that Petitioner has none of the expenses outlined in N.J.A.C. 10:87-6.16(b)(5) – (7). Next, excess shelter costs, if any, are determined. See N.J.A.C. 10:87-6.16(b)(8). Petitioner's total shelter expenses are \$516 plus the standard utility allowance of \$454 for a total of \$970. From that amount is subtracted half of net income which is \$1400 (half of \$2800 minus (deductions in N.J.A.C. 10:87-6.16(b)(5) – (7) or \$0)), for a total of a - \$430. Due to the negative amount, Petitioner has no excess shelter costs, and therefore, the household's net monthly income has been determined, \$2800. See N.J.A.C. 10:87-6.16(b)(8).

The household's net monthly income, \$2800 is then compared to the maximum allowable net income standard, which, as discussed above, is \$958. Clearly, Petitioner's net monthly income exceeds the maximum allowable net income and as such, Petitioner is ineligible to receive SNAP benefits.

By way of comment, I find Petitioner's Exceptions to be without merit. As discussed

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above, I disagree with Petitioner's contention that his estimated business losses qualify to be deducted as the costs of producing self-employment income, as none of those expenses have been verified and do not qualify pursuant to N.J.A.C. 10:87-7.5(a). Furthermore, as also noted above, the SNAP regulations specifically dictate how various household amounts are calculated to determine SNAP eligibility, which may differ from the Federal Tax Income amounts which Petitioner relies on in his Exceptions.

Based upon the foregoing, the Agency's determination in this matter is hereby AFFIRMED.

OCT 22 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director