



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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Director

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

REMAND DECISION

OAL DKT. NO. HPW 3860-15 J.W.

AGENCY DKT. NO. C050695 (CAPE MAY COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Supplemental Nutrition Assistance Program ("SNAP") benefits, *f/k/a* the Food Stamp Program. The Agency denied Petitioner's application for benefits on the basis that Petitioner failed to provide requested necessary documentation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 16, 2015, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence.

On April 27, 2015, the ALJ issued his Initial Decision, reversing the Agency's determination and remanding Petitioner's application to the Agency for disposition on the merits. Petitioner disclosed in her application that she was residing with her boyfriend, A.B. See Initial Decision at 2. The Agency then searched the U.S. Citizenship and Immigration Service records and found that A.B. was not an American citizen. *Ibid*. Therefore, the Agency directed Petitioner to produce A.B.'s alien registration number and, when Petitioner failed to provide it, the Agency denied her application. *Ibid*.

The ALJ found that based upon the credible evidence presented, it was clear that Petitioner did fail to provide the alien registration number of her boyfriend, A.B., who lived with her. See Initial Decision at 2. Petitioner testified at the hearing that A.B. came to the United States 20 years ago on a student visa and has remained in the country illegally. *Ibid*.

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Although A.B. is attempting to obtain legal alien status, to date he has been unable to do so. Ibid. Therefore, A.B. has no alien registration number. Ibid.

The ALJ found that because A.B. does not reside in the U.S. as a legal alien, he cannot receive NJ SNAP benefits. See Initial Decision at 3; see also N.J.A.C. 10:87-2.19(c)(4)(an alien is ineligible until acceptable documentation is provided). However, the ALJ also concluded that because A.B. has no alien registration number, Petitioner cannot produce what does not exist. See Initial Decision at 3. For that reason, the Agency improperly denied Petitioner's SNAP application. Ibid. In addition, Petitioner is not precluded from being certified for SNAP benefits, if eligible. Ibid.; see also N.J.A.C. 10:87-3.7(b). Therefore, the ALJ concluded that since the Agency never analyzed Petitioner's application on the merits because she failed to produce the alien registration number, the case must be remanded to the Agency for disposition on the merits. See Initial Decision at 3.

No Exceptions to the 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 concur with the ALJ's conclusions in this matter and hereby ADOPT the ALJ's findings of fact and conclusions of law in the Initial Decision.

Accordingly, the Initial Decision in this matter is hereby ADOPTED, the Agency's determination is REVERSED, and the case is REMANDED to the Agency for a disposition of Petitioner's application on the merits.

MAY 12 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director