



*State of New Jersey*

**DEPARTMENT OF HUMAN SERVICES**

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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 12933-14 S.U.

AGENCY DKT. NO. C027984 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)

Petitioner appeals the Respondent Agency's correctness of a Supplemental Nutrition Assistance Program ("SNAP"), f/k/a Food Stamps, and Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits recoupment due to overissuances of both benefits. The Agency asserts that Petitioner received SNAP and WFNJ/TANF benefits to which she was not entitled as the result of an administrative error. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 24, 2014, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence.

On December 8, 2014, the ALJ issued an Initial Decision modifying the Agency's determination. The ALJ opined that based upon the Agency's approval of the Family Violence Option ("FVO") waiver, and not the supporting FVO Risk Assessment Report which had determined that there was no risk of family violence, that the Agency should not be seeking a recoupment of benefits from July 2012. See Initial Decision at 3-4. Rather, the ALJ concluded that any recoupment should be only back to December 2012, based upon the date on which a later FVO Risk Assessment Report was issued, November 20, 2012, resulting in the subsequent denial of the FVO waiver. See Joint Stipulation of Facts, Exhibits C and D. The ALJ further opined that the Agency had no legal basis "to reconsider a determination made two years later through an internal review." See Initial Decision at 5. As such, the ALJ modified the amounts of the overpayment to those from December 2012 forward. *Ibid.*

No exceptions to the Initial Decision were filed.

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As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby REJECT the Initial Decision, and AFFIRM the Agency determination.

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 the instance of an overpayment of 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 an action of the Agency itself, called an "administrative error." N.J.A.C. 10:87-11.20(e)(3). Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. N.J.A.C. 10:87-11.20(f)(1)(i).

Petitioner was also the recipient of benefits from the WFNJ welfare program, N.J.S.A. 44:10-34 et seq., through the Agency. Petitioner was a legal permanent resident of the United States for less than five years, and as such, was only eligible for benefits due to the FVO waiver, which waives the residency requirement for an otherwise ineligible alien. See N.J.A.C. 10:90-20.4(a)(6)(i); see also N.J.A.C. 10:90-2.6(a)(2). An overpayment of WFNJ benefits is also subject to recoupment, "regardless of fault, including overpayments caused by administrative action ...." N.J.A.C. 10:90-3.21(a)(1). The Agency is to take action to recover the overpayment "by the end of the quarter in which the overpayment is first identified." N.J.A.C. 10:90-3.21(a)(12).

Based upon the foregoing, when the Agency incorrectly determined that Petitioner was approved for an FVO waiver in May 2012, despite the supporting documentation clearly indicating that there was "no risk of domestic violence," see Joint Stipulation of Facts at Exhibit A, the Agency is obligated to recoup those benefits paid to Petitioner to which she was not entitled.

Furthermore, the record reflects that the Agency discovered the overpayments in July 2014 and then sought repayment in August 2014. See Notice to Repay Overissued NJ SNAP Benefits and Summaries. Pursuant to N.J.A.C. 10:87-11.20(f)(1)(i) and N.J.A.C. 10:90-3.21(a)(12), I find that the Agency's recoupment efforts are timely.

By way of comment, the ALJ questions the Agency's use of the July 2012 date as the starting point for recoupment, rather than May, when the FVO Assessment report was issued, or June 2012. See Initial Decision at 4, fn. 1. As the ALJ maybe aware, when terminating WFNJ benefits, 10 days notice of the termination is to be given. See N.J.A.C. 10:90-9.1(b)(1). Benefits are issued on the first of a month. When the effective date of termination would fall after the first of the month, then that is the last month for which benefits would be received. The late May 2012 date of the FVO Assessment report and subsequent review for the waiver, seem to

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support that had the Agency properly denied the FVO waiver, proper and timely notice would have been after the first of June 2012, and therefore why the Agency began recoupment as of the following month, July 2012.

By way of further comment, the record indicates that Petitioner is also appealing the correctness of an overissuance of Medicaid benefits. It should be noted that the Medicaid Program is not under the jurisdiction of this Division. However, a copy of the Initial and Final Decisions will be forwarded to the Division of Medical Assistance and Health Services ("DMAHS") for review and resolution.

Accordingly, based upon the foregoing, I hereby REJECT the Initial Decision in this matter and AFFIRM the Agency determination.

**JAN -6 2015**

*Signed Copy on File*  
at DFD, BARA

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Jeanette Page-Hawkins  
Director