



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
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

FINAL DECISION

OAL DKT. NO. HPW 11260-18 J.K.

AGENCY DKT. NO. C187010004 (CAMDEN COUNTY BOARD OF SOC. SVCS.)

Petitioner challenges the correctness of an overissuance of Supplemental Nutrition Assistance Program ("SNAP") benefits. Respondent Agency asserts that Petitioner received SNAP benefits to which he was not entitled, as the result of a failure to timely report household earned income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 4, 2018, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. On October 11, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby MODIFY the Initial Decision and AFFIRM the Agency's determination, as discussed below.

SNAP 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 results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Another type of overpayment subject to recoupment is one that results from a "false or misleading statement, or misrepresented, concealed or withheld facts," and is defined as an Intentional Program Violation ("IPV"). See N.J.A.C. 10:87-11.3(a)(1). In the instance of an IPV, the ALJ shall base the determination of an IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined above. See N.J.A.C. 10:87-11.5(a)(6). Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).



Here, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner received an overissuance of SNAP benefits to which he was not entitled. See Initial Decision at 4. Specifically, Petitioner did not report that his spouse had earned income, which resulted in an overissuance of SNAP benefits to Petitioner in the amount of \$2,671, from November 2016, through April 2017, and \$3,358, from May 2017, through October 2017, totaling \$6,029. Ibid.; see also Exhibit R-1 at 1-4, 5-10, 41-48, and N.J.A.C. 10:87-5.2(a)(1), -5.4(a), -9.5. Based on the record presented, the ALJ concluded that the Agency's determination that Petitioner was overissued SNAP benefits during the time periods claimed was proper, and that the resulting notices to repay the overissuances, were therefore appropriate. See Initial Decision at 4-5; see also Exhibit R-1 at 1-4, 5-10, and N.J.A.C. 10:87-11.20(b), (e)(3).

While I agree with the ALJ's Final Conclusion in this matter, an independent review of the record reflects that \$6,029 is the total amount of the overissuance, rather than the amount of unreported earned income as stated by the ALJ. See Exhibit R-1 at 4, 10. The record further reflects that the Agency calculated the amount of earned income for each month, and the resultant monthly overissuance, separately. See Exhibit R-1 at 15-38. The Initial Decision is modified to reflect these findings.

By way of comment, while it appears that the Agency seeks a finding of an IPV with respect to the \$3,356 overissuance of SNAP benefits for the period of May 2017, through October 2017, I note that the necessary higher burden of proof to make such a finding is lacking in this matter. See Exhibit R-1 at 5. In order to make a finding of an IPV, certain procedural safeguards must first be met, after which, the facts and evidence are scrutinized under a higher burden of proof, clear and convincing, rather than under the lesser standard of preponderance of credible evidence. See N.J.A.C. 10:87-11.5(a)(3), (a)(6). Here, the higher standard of clear and convincing evidence has not been applied, and therefore, an IPV has not been established, but rather, an overpayment subject to recoupment for SNAP benefits received to which the household was not entitled. See Initial Decision at 4.

I ORDER and direct that the Agency proceed to recoup the overissuances.

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

Officially approved final version.

OCT 2 2018

Natasha Johnson
Director

