



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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Elizabeth Connolly
Acting Commissioner

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

REMAND DECISION

OAL DKT. NO. HPW 9092-15 V.A.

AGENCY DKT. NO. C167102 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of his Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits upon recertification. The Agency terminated Petitioner's SNAP benefits because Petitioner's gross income exceeded the maximum allowable for continued SNAP eligibility. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 31, 2015, the Honorable Jeffrey A. Gerson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence.

On July 31, 2015, the ALJ issued his Initial Decision, reversing the Agency's determination. The ALJ noted that Petitioner's monthly income for March 2015 was \$5,990.00, which was not in dispute. See Initial Decision at 2. Petitioner asserted that the Agency had utilized the incorrect amount of rent to determine his eligibility. *Ibid.* Additionally, Petitioner asserted that the Agency's termination of his benefits on recertification was untimely. *Ibid.* The ALJ agreed that the Agency's termination notice was untimely and ordered Petitioner to be provided with retroactive SNAP benefits for May 2015. *Ibid.* With regards to June and July benefits, the ALJ ordered that the Agency recalculate Petitioner's eligibility using his correct rent amount of \$1,500.00, rather than \$1,200.00. *Ibid.*

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

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review of the record, I REJECT the Initial Decision in part, ADOPT the Initial Decision in part, and remand to the Agency for further action as outlined below.

The record in this matter clearly indicates that this matter stems from a termination of benefits as the result of a redetermination for benefits. I note that N.J.A.C. 10:87-9.1(a), which clearly states that SNAP benefits may not extend beyond the end of a certification period without a new determination for continued SNAP eligibility. The disputed issue in this matter is whether or not Petitioner is, in fact, eligible for further SNAP benefits.

Based upon the termination notice, effective May 1, 2015, see Exhibit R-1, it would appear that Petitioner's certification period ended April 30, 2015. At first glance, the undisputed amount of Petitioner's gross income, \$5,990.00, would certainly seem to render Petitioner ineligible for further SNAP benefits. However, without a complete record, showing the various deductions utilized, as well as any breakdown between earned and unearned income, and then substituting the correct rent amount, I am unable to make an independent determination as to Petitioner's continued eligibility, see N.J.A.C. 10:87-6.16, and therefore agree with the ALJ that the matter must be remanded to the Agency for new calculations. As such, I adopt this portion of the ALJ's Initial Decision. I further direct the Agency to provide Petitioner with a breakdown of the calculations used.

However, I disagree with the ALJ that the perceived untimely notice entitles Petitioner to retroactive benefits for the month of May, 2015. As stated above, pursuant to N.J.A.C. 10:87-9.1(a), SNAP benefits are not to extend beyond the end of a certification without a new determination for eligibility. The sole issue in this matter is Petitioner's eligibility made during a redetermination. If the Agency's recalculations do result in a finding that Petitioner is, in fact, eligible for further SNAP benefits during a new certification period, then Petitioner will be entitled to retroactive benefits for that time period. See N.J.A.C. 10:87-11.11. That entitlement to continued benefits has not yet been established, however, and if Petitioner were issued benefits to which he was not entitled, those benefits would be subject to recoupment. See N.J.A.C. 10:87-11.20. Accordingly, I reject the portion of the ALJ's determination that Petitioner is entitled to SNAP benefits for the month of May 2015.

Accordingly, the Initial Decision in this matter is hereby REJECTED in part, ADOPTED in part, REVERSED and REMANDED to the Agency to recalculate Petitioner's SNAP eligibility on recertification.

Signed Copy on File

at DFD, BARA

AUG 21 2015

Natasha Johnson
Director