

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

ADMINISTRATIVE LAW JUDGE'S INITIAL DECISION

Petitioner, :
v. :
: Docket No.: OSAH-DFCS-FSP-1324036-44-
: Walker-Russell
: Agency No.: 788554905
: Respondent. :



FILED
OSAH

MAR 18 2013

Appearances: For Petitioner: _____, Petitioner
For Respondent: Stephanie Merriweather, Supervisor, Business Support
Jenna Judy, Legal Assistant

I. INTRODUCTION

Petitioner, _____ seeks administrative review of the denial of food stamp benefits for September 2012, and the allotment of her food stamp benefits for October 2012 through March 2013, by the Dekalb County Department of Family and Children Services ("Respondent"). The issue in this case is whether Respondent's actions were proper in the denial and issuance of Petitioner's food stamp benefits for these months. The parties were provided an opportunity to present sworn testimony and documentary evidence at the hearing held on March 1, 2013.¹ For the reasons stated herein, Respondent's decisions are **AFFIRMED** for September 2012 and October 2012, but **REMANDED** for November 2012 through March 2013, because Petitioner received an over-issuance of food stamp benefits for these months.

II. FINDINGS OF FACT

The Administrative Law Judge has carefully considered the entire available evidence and, based upon the preponderance of the relevant and credible evidence in this case, makes the following findings of fact:

DENIAL OF SEPTEMBER 2012, RENEWAL APPLICATION

1.

From April 2012 through September 2012, Petitioner was a recipient of food stamp benefits for an assistance unit (AU) of four (4) including herself and three (3) sons: _____ age 23; _____ age 21; and _____ age 14. Petitioner did not receive any income during this period. Petitioner's food stamp benefits were based solely upon her son _____'s SSI income of \$653.14 per month. Since _____ is disabled, the gross income limit for Petitioner's AU is \$3,170 per month and the net income limit is \$1,921. From April 2012 through September 2012, Petitioner's household was under both income limits and Petitioner received food stamp benefits during these months. (*Testimony of Stephanie Merriweather; Respondent's Exhibit R-1*).

¹ Petitioner chose not to testify at the hearing and did not present any evidence in this case. The record was held open until March 8, 2013, for Respondent to submit Petitioner's manual food stamp budget and the Food Stamp Eligibility Tables.

2.

In September 2012, Petitioner completed an online renewal application to determine her continued eligibility for food stamp benefits for October 2012 through the six-month eligibility review ending March 2013. On the renewal application, Petitioner reported [redacted] SSI monthly benefits as the only income in the household. [redacted] continued to receive \$653.14 per month in SSI income. However, upon further investigation through the "work number", the caseworker discovered that Petitioner's son [redacted] was employed at [redacted] since June 2012.² To determine [redacted] gross monthly income, the caseworker combined his August 2012, wages of \$526.17 (August 10, 2012), \$495.90 (August 17, 2012), and 470.73 (August 31, 2012)³ for a total of \$1,492.80, divided by 3 = \$497.60, then multiplied by 4.3333 = \$2,156.25 ([redacted] gross monthly income). (*Testimony of Stephanie Merriweather; Respondent's Exhibit R-1*).

3.

Since [redacted] is disabled, the gross income limit for Petitioner's AU is \$3,170 per month and the net income limit is \$1,921. To determine the gross monthly income for Petitioner's AU of four (4), combine [redacted] monthly income of \$2,156.25, plus [redacted] monthly SSI income of \$653.14 for a total gross monthly income of \$2,809.39. Petitioner's gross monthly income of \$2,809.39 is under the income limit of \$3,170. However, Petitioner's adjusted net monthly income of \$2,104.21, is over the net income limit of \$1,921. (*Testimony of Stephanie Merriweather; See, Respondent's Exhibit R-1*).⁴ Therefore, Respondent properly denied Petitioner's food stamp renewal application at the end of September 2012.

OCTOBER 2012 FOOD STAMP BENEFITS

4.

Petitioner reapplied for food stamp benefits on October 25, 2012, for herself and three (3) sons [redacted], age 23; [redacted], age 21; and [redacted], age 14. On the renewal application, Petitioner reported [redacted] SSI monthly benefits as the only income in the household. [redacted] continued to receive \$653.14 per month in SSI income. However, upon further investigation, through the "work number", the caseworker determined that [redacted] was still employed at [redacted]. To determine [redacted] gross monthly income, the caseworker combined his October 2012, wages of \$465.58 (October 5, 2012), \$447.21 (October 12, 2012), \$461.48 (October 19, 2012), and \$468.21 (October 26, 2012), for a total of \$1,842.48. The total of \$1,842.48 is then divided by 4 = \$460.62, then multiplied by 4.3333 = \$1,996 ([redacted] gross monthly income).

Gross Monthly Income Limit:

5.

Since [redacted] is disabled, the gross income limit for Petitioner's AU of four (4) is \$3,170 per month. To determine the gross monthly income, combine [redacted] monthly income of \$1,996, plus [redacted] monthly SSI income of \$653.14, for a total gross monthly income of \$2,649.14. Petitioner's gross monthly income of \$2,649.14 is under the income limit of \$3,170. (*Testimony of Stephanie Merriweather; Respondent's Exhibit R-2A*).

² The "work number" is an income verifier used by the State of Georgia to verify wages. (*Testimony of Stephanie Merriweather*).

³ Zariel also received 604.62 on August 24, 2012, which was not included by the caseworker in determining Zariel's monthly income.

⁴ The undersigned ALJ also computed the net monthly income as \$2,104, which is included as a separate attachment to Respondent's Exhibit R-1).

Net Monthly Income Limit:

6.

The net income limit for Petitioner's AU of four (4) is \$1,921 per month. To determine the net monthly income, first determine Petitioner's adjusted earned income. Subtract 20% from Petitioner's gross monthly income of \$1,985.17:

$$\begin{array}{r} \$1,996 \\ -\$399.20 \text{ (20\%)} = \\ \hline \$1,596.80 \text{ (adjusted earned monthly income)} \end{array}$$

Second, determine Petitioner's total household income. Combine the \$1,596.80 (earned monthly income) with Petitioner's monthly SSI income of \$653.14: $\$1,596.80 + \$653.14 = \$2,249.94$ (total household income).

Third, determine Petitioner's net food stamp income: Petitioner received a standard deduction in the amount of \$160. To determine Petitioner's net food stamp income, subtract \$160 from the total household income of $\$2,249.94 = \$2,089.94$ (net food stamp income).

Fourth, determine Petitioner's total shelter costs: In October 2012, Petitioner's shelter costs included \$880 (mortgage) and \$343 (standard utility deduction). To determine Petitioner's shelter costs, add the two together:

$$\begin{array}{r} \$880 \text{ (mortgage) plus} \\ + \$343 \text{ (standard utility deduction)} = \\ \hline \$1,223 \text{ (total shelter costs)} \end{array}$$

Fifth, determine the excess shelter costs. Subtract 50% of the net food stamp income (\$2,089.94) from the total shelter costs to get the excess shelter deduction:

$$\begin{array}{r} \$1,223 \text{ (total shelter costs)} \\ - \$1044.97 \text{ (50\% of net income)} = \\ \hline \$178.03 \text{ (excess shelter deduction). (Respondent's Exhibits R-2A).} \end{array}$$

Finally, to determine Petitioner's adjusted food stamp income use the following steps: net food stamp income minus excess shelter deduction:

$$\begin{array}{r} \$2,089.94 \text{ (net food stamp income)} \\ -\$178.03 \text{ (excess shelter deduction)} = \\ \hline \$1911.91 \text{ (rounded up to } \$1912, \text{ adjusted net food stamp income)} \end{array}$$

7.

Petitioner's adjusted net monthly income of \$1,912 is under the income limit of \$1,921. Therefore, Petitioner was eligible for food stamps for October, 2012. Using Petitioner's adjusted net monthly income of \$1,912 for an AU of four (4), Petitioner was entitled to \$94 in food stamp benefits for October 2012, according to the October 1, 2009, Food Stamp Allotment Table. Petitioner received \$94 in food stamp benefits for October 2012. Therefore, Respondent properly calculated Petitioner's food stamp benefits for October 2012. (*Testimony of Stephanie Merriweather; Respondent's Exhibit R-2-A*).

NOVEMBER 2012 through March 2013 FOOD STAMP ALLOTMENT

8.

In November 2012, Petitioner's son, [redacted], applied for his own food stamp benefits. Omar's application was approved and he was removed from Petitioner's AU, which now consists of Petitioner and her two (2) sons: [redacted] age, 23 and [redacted] age 14. Petitioner's November 2012, food stamp budget is valid through March 2013, and only includes [redacted] earned income of \$1,996, which was verified through the "work number." (*Testimony of Stephanie Merriweather; Respondent's Exhibit R-2-B*). The gross income limit for Petitioner's AU of three (3) is \$2,069 and the net income limit is \$1,591. (*October 2012, Food Stamp Eligibility Tables*). Petitioner's gross income of \$1,996 is under the income limit.

Net Monthly Income Limit:

9.

First, determine Petitioner's adjusted earned income. Subtract 20% from [redacted] gross monthly income of \$1,985.17:

\$1,996
-\$399.20 (20%) =
\$1,596.80 (adjusted earned monthly income)

Second, determine Petitioner's total household income: \$1596.80 (total household income).

Third, determine Petitioner's net food stamp Income: Petitioner received a standard deduction in the amount of \$149 for an AU of three (3). To determine Petitioner's net food stamp income, subtract \$149 from the total household income of \$1,596.80 = \$1,447.80 (net food stamp income).

Fourth, determine Petitioner's total shelter costs: In October 2012, Petitioner's shelter costs included \$880 (mortgage) and \$343 (standard utility deduction). To determine Petitioner's shelter costs, add the two together:

\$880 (mortgage) plus
+ \$343 (standard utility deduction) =
\$1,223 (total shelter costs)

Fifth, determine the excess shelter costs. Subtract 50% of the net food stamp income (\$1,447.80) from the total shelter costs to get the excess shelter deduction:

\$1,223 (total shelter costs)
- \$723.90 (50% of net income) =
\$499.10 (excess shelter deduction)⁵

Finally, to determine Petitioner's adjusted net monthly income use the following steps: net food stamp income minus excess shelter deduction:

\$1,447.80 (net food stamp income)
-\$469 (maximum excess shelter deduction) =
\$978.80 (rounded up to \$979, adjusted net food stamp income)

⁵ The maximum excess shelter deduction is \$469, according to the October 2012, Eligibility/Payment Tables.

10.

Petitioner's adjusted net monthly income of \$979 is under the income limit of \$1,591. Therefore, Petitioner is eligible for food stamps for November 2012 through March 2013. Using Petitioner's adjusted net monthly income of \$979 for an AU of three (3), **Petitioner is entitled to \$232** in food stamp benefits for November 2012 through March 2012, according to the October 1, 2009, Food Stamp Allotment Tables. However, **Petitioner received \$241** in food stamp benefits for November 2012, December 2012, January 2013, February 2013, and March 2013. Therefore, Petitioner received an over-issuance of food stamps in the amount of nine (9) dollars for each month, for a total of \$45 (forty five dollars). (*Testimony of Stephanie Merriweather; Respondent's Exhibit R-2-B*).

III. CONCLUSIONS OF LAW

1.

Respondent bears the burdens of proof and going forward in this matter because Respondent has determined Petitioner's Food Stamp allotment. OSAH Rule 616-1-2-.07(1)(d). The standard of proof on all issues is the preponderance of evidence standard. OSAH Rule 616-1-2-.21(4).

2.

All countable resources and income of the AU members are considered in determining financial eligibility for food stamps. *Food Stamp Manual*, Volume III – FS MT 08/ 08, at Page 3610-1.

3.

All money received from any source by the assistance unit ("AU") is considered in determining the eligibility and benefit level. *Food Stamp Manual*, Volume III – FS MT 08/ 08, at Page 3420-1.

4.

Food Stamp coupon allotment is based on the assistant unit's (AU's) countable income. All countable income of the AU is applied to the income limits for the AU's size for the program, which the AU applies. *Food Stamp Manual*, Page 3420-1. Income is included if it is accessible to the AU for daily use because the AU has the legal ability to use it. The A/R should provide verification of income from the payment source. *Food Stamp Manual*, Volume III – FS MT 08/ 08, at Page 3420-2. In this matter, Petitioner's food stamp allotments are based upon the countable monthly income in SSI benefits for her son Omar and the earned income of her son Zariief.

5.

In calculating the food stamp budget, charges for the shelter occupied by the household, including rent may be allowed as a deduction. Current housing costs or the current status of the housing expense(s) must be verified at the initial application, review, or an interim change if the information is incomplete, inaccurate, or questionable. *Food Stamp Manual*, Volume III – FS MT 32-11/11, at Page 3617-1.

6.

Excess shelter expense deduction: A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed. 7 USCS § 2014(e)(6)(A).

DENIAL OF SEPTEMBER 2012, RENEWAL APPLICATION

7.

Based upon the foregoing, it is concluded that Respondent properly denied Petitioner's September 2012, food stamp application because Petitioner's adjusted net monthly income of \$2,104.21, is over the net income limit of \$1,921.

OCTOBER 2012 FOOD STAMP BENEFITS

8.

Based upon the foregoing, it is concluded that Respondent properly calculated Petitioner's October 2012, food stamp benefits. Petitioner's net monthly income of \$1,912 for an AU of four (4), entitled Petitioner to \$94 in food stamp benefits for October 2012, according to the October 1, 2009, Food Stamp Allotment Table. Since Petitioner received \$94 in food stamp benefits, Respondent properly calculated her food stamp benefits for October 2012.

9.

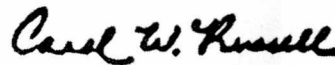
NOVEMBER 2012 through March 2013 FOOD STAMP ALLOTMENT

Based upon the foregoing, it is concluded that Petitioner received an over-issuance of food stamps in the amount of \$45 (forty five dollars) for November 2012 through March 2013. Petitioner's net monthly income of \$979 for an AU of three (3), entitled Petitioner to \$232 in food stamp benefits for November 2012 through March 2013, according to the October 1, 2009, Food Stamp Allotment Tables. However, Petitioner received \$241 in food stamp benefits for November 2012, December 2012, January 2013, February 2013, and March 2013. Therefore, Petitioner received an over-issuance of food stamps in the amount of nine (9) dollars for each month, for a total of \$45 (forty five dollars).

IV. INITIAL DECISION

For all of the foregoing reasons, Respondent's decisions are **AFFIRMED** for September 2012 and October 2012, but **REMANDED** for November 2012 through March 2013, because Petitioner received an over-issuance of food stamp benefits in the amount of \$45 (forty five dollars) for these months.

SO ORDERED this 18th day of March, 2013.



CAROL WALKER-RUSSELL
ADMINISTRATIVE LAW JUDGE