

**J.S.,**  
Petitioner,  
v.  
**ESSEX COUNTY DIVISION OF WELFARE,**  
Respondent.

Decided December 10, 1979

**Initial Decision**

SYNOPSIS

Due to a labor dispute at the Essex County Division of Welfare, petitioner was not provided with an application for participation in the Food Stamp Program when he attempted to apply as required by *N.J.A.C. 10:87-2.13(b)*.

The administrative law judge found that since the petitioner had attempted to apply for benefits on September 11, 1979, but was prevented from doing so, the local welfare agency must make an evaluation of his eligibility for food stamps for the month of September 1979, and issue benefits if appropriate.

---

**ROBBINS, ALJ:**

Petitioner requests relief from the failure of the Essex County Division of Welfare to offer petitioner an opportunity to apply for participation in the Food Stamp Program (FSP) pursuant to *N.J.A.C. 10:87-2.13(b)*. The matter was transmitted to the Office of Administrative Law for determination as a contested case, pursuant to *N.J.S.A. 52:14F-1 et seq.*

Petitioner requested a hearing on October 18, 1979 and after notice to all parties, a hearing was held on November 21, 1979.

At issue is the agency's failure to provide petitioner with an application for participation in the program as provided by the regulations, *N.J.A.C. 10:87-2.13(b)*:

Each household has the right to file an application during office hours of the same day it contacts the food stamp office within the county of its residence. . . .

During the period from September 10, 1979 through September 21, 1979, many employees of the Essex County Division of Welfare were on strike. Because of the greatly reduced work force, normal processing of applications was interrupted. Petitioner claims that because of these circumstances, he was prevented from receiving food stamp benefits.

---

J.S. v. Essex County Division of Welfare  
Cite as 1 *N.J.A.R.* 432

---

According to petitioner, he attempted to apply for food stamp benefits on September 11, 1979. On this date, he spoke to a receptionist who did not give him an application, but advised him to return for an interview on October 10, 1979. Petitioner stated that he was in need of assistance, as he had been on strike from his full-time employment since August 25, 1979. Immediately after his visit to the Food Stamp Office, he learned that he would return to employment on September 12, 1979.

It was petitioner's contention that he was in need of food stamp assistance during the period from August 25, 1979 through September 11, 1979 as he was without any income. He felt he should have been given an opportunity to apply for benefits when he visited the office on September 11, 1979. He felt that food stamp benefits for the period of time when he was out of work should have been issued.

The agency's representative stated that during the period of the agency's strike, persons who came to the office were given dated applications and were further told to return for interviews within a period of two to three weeks. Upon return visit and completion of the applications, food stamp benefits were issued retroactive to the original date of application. He further stated that all persons who gained entry to the part of the office under his care, were given applications and if petitioner had come in as stated, he would have received an application.

Petitioner testified that on September 10 and on September 11, 1979, the Food Stamp Office was in a state of chaos with long lines extending outside the office. He disputed the fact that all persons who finally gained entry to the office were taken care of in the manner stated.

Based upon the foregoing, I **FIND**:

1. Petitioner attempted to apply for food stamp benefits on September 11, 1979.
2. At this time, because of a labor dispute by the agency employees, food stamp applications were not processed in the usual fashion.
3. Regulations provide that each household has the right to file an application on the same day that the appropriate food stamp office is contacted.
4. Regulations (*N.J.A.C.* 10:87-6.2) further provide that the ". . . CWA shall determine a household's eligibility and benefit level during the month of application based on the household's circumstances for the entire calendar month. . ."
5. Since petitioner made no attempt to file an application during the month of August 1979, he is ineligible for benefits during that month.
6. Since petitioner attempted to file an application for food stamp benefits on September 11, 1979, eligibility for such benefits should have been

---

J.S. v. Essex County Division of Welfare  
Cite as 1 *N.J.A.R.* 432

---

evaluated and the agency was remiss in not issuing an application so that such evaluation could have been made.

Based upon the facts adduced at the hearing in this proceeding and the applicable regulations, I **CONCLUDE**, pursuant to *N.J.A.C.* 10:87-2.13b, that petitioner has entitlement to have an evaluation made of his eligibility for food stamp benefits for the month of September, in accordance with his circumstances during that month.

Therefore, the Essex County Division of Welfare is hereby **ORDERED** to evaluate petitioner's eligibility for food stamp benefits for the month of September 1979 and to issue benefits if appropriate.

---

After reviewing this Initial Decision, the Division of Public  
Welfare on January 3, 1980, issued the following Final  
Decision:

The initial decision in the case of the above captioned, is accepted and incorporated herein.