



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 02111-19 M.C.

AGENCY DKT. NO. S473963014 (MORRIS CO. DIV. EMP. & TEMP ASST)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent intentionally failed to report a change in circumstances, while receiving SNAP benefits, thus causing Respondent to receive an overissuance of benefits to which she was not entitled. Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against her, and the proposed disqualification penalty via certified mail, return receipt requested, on February 6, 2019. See Exhibit P-1 at 28, 29-30. Because Respondent failed to execute and return the waiver of right to a hearing, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. *Id.* at 31-32. On February 21, 2019, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a hearing, took testimony and admitted documents.

On February 26, 2019, the ALJ issued an Initial Decision, which found that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent had deliberately and intentionally withheld information from the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 4; see also N.J.A.C. 10:87-11.3(a)(1). Here, the ALJ found that, while Respondent was incarcerated, an unknown person gained possession of Respondent's Electronic Benefits Transfer ("EBT") card, and used her SNAP benefits, without her knowledge, resulting in an overpayment of SNAP benefits to Respondent in the amount of \$60.56. See Initial Decision at 2; see also Exhibit P-1 at 20-26, and N.J.A.C. 10:87-9.7(a). The ALJ further found, and the Agency does not dispute, that Respondent did not intentionally allow anyone else to use her SNAP benefits. See Initial Decision at 2. Accordingly, the ALJ determined that, based on the record presented, the Agency had failed to meet its burden, by clear and convincing evidence, that Respondent committed an IPV, and reversed the Agency action disqualifying Respondent from receipt of SNAP benefits. See Initial Decision at 5; see also Exhibit P-1 at 15-19; and N.J.A.C. 10:87-11.1, -11.2(a)(1), -11.3(a)(1). I agree.

No Exceptions to the Initial Decision were filed.



As the Director of the Division of Family Development, Department of Human Services, I have considered the Initial Decision in this matter, and following an independent evaluation of the record, I concur with the ALJ's decision and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

Additionally, in the instance of an overpayment of benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. Here, the record reflects that Respondent is currently repaying the overissuance of SNAP benefits, by way of recoupment from Respondent's current SNAP benefits. See Initial Decision at 3. Therefore, I direct that the Agency continue to recoup the overissuance, until the balance is satisfied.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter, and REVERSE the Agency's imposition of a 12-month disqualification from SNAP benefits. I further ORDER that the Agency is to recoup the overissuance.

Officially approved final version.

APR - 1 2019

Natasha Johnson
Director

