



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT

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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 08610-19 R.W.

AGENCY DKT. NO. C057552017 (SALEM COUNTY BOARD OF SOC. SVCS.)

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 receipt of SNAP benefits from another state, while also receiving SNAP benefits in New Jersey, 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 personal service on May 23, 2019. See Exhibit P-1 at 59-61. Because Respondent failed to execute and return the waiver of her right to a hearing, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. Id. at 62-63. On July 15, 2019, the Honorable Tama B. Hughes, Administrative Law Judge ("ALJ"), held a hearing, took testimony and admitted documents. On July 18, 2019, the ALJ issued an Initial Decision, affirming the overissuance of duplicate SNAP benefits issued to Respondent, but reversing the Agency's alleged IPV, and ten-year disqualification period from receipt of SNAP benefits, based on a lack of intent.

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 Initial Decision and the record in this matter, and hereby ADOPT the ALJ's Initial Decision and AFFIRM in part, and REVERSE in part, the Agency's determination, as outlined below.

An IPV occurs when SNAP benefits are issued as the result of an intentional false or misleading statement, or misrepresentation, concealment or withholding of facts. See N.J.A.C. 10:87-11.3. An ALJ shall base the finding of an IPV on clear and convincing evidence which demonstrates that the household member committed, and intended to commit, an IPV. See N.J.A.C. 10:87-11.5(a)(6).

In the instance of an overpayment of SNAP 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). 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 not met its burden in establishing, by clear and convincing evidence, that Respondent intentionally made false or misleading statements, or concealed facts. See Initial Decision at 6; see also N.J.A.C. 10:87-11.3. The Agency purports that Respondent received duplicate SNAP benefits in October 2018, from the states of Delaware and New Jersey, causing her to receive an overpayment of \$315 in SNAP benefits. See Initial Decision at 3; see also Exhibit P-1 at 53, 54, 55-57. The ALJ found Respondent to be credible when she testified that she informed the Agency caseworker during an October 9, 2018, telephonic interview that she had received SNAP benefits from Delaware. See Initial Decision at 5; see also Exhibit P-1 at 23. Respondent testified further that the paper application for SNAP benefits, sent to her after the telephone interview and requiring her signature, unbeknownst to her, noted that she had not received SNAP benefits from another state, and that she had signed the SNAP application without first reading it. See Initial Decision at 6; see also Exhibit P-1 at 43-52. Based on the foregoing, the ALJ found that Respondent did not intend to receive duplicate SNAP benefits, and that she had believed that she was authorized to use the October 2018, SNAP benefits issued from New Jersey. See Initial Decision at 6. Accordingly, the ALJ concluded that the Agency had failed to meet its burden, by clear and convincing evidence, that Respondent had committed an IPV, and therefore reversed the Agency's action disqualifying her from receipt of SNAP benefits for ten years. *Id.* at 7; see also Exhibit R-1 at 58, and N.J.A.C. 10:87-3.18, -11.2(e), -11.3. I agree.

Additionally, based upon an independent review of the record, I also agree with the ALJ's conclusion that Respondent received an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 7. While Respondent did not have the requisite intent to commit an IPV, I find that Respondent's receipt and use of SNAP benefits in the same month, from two states, resulted in an improper windfall to her benefit, as receipt of duplicate SNAP benefits is money to which she was not entitled, and therefore, must be repaid. *Ibid.*, see also N.J.A.C. 10:87-11.20(a), (b). 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 7; see also Exhibit P-1 at 4-8. Therefore, I ORDER and direct the Agency to continue to recoup the overissuance, until the balance is satisfied.

Accordingly, the Initial Decision in this matter is ADOPTED and the Agency determination in this matter is AFFIRMED in part, as to the overissuance and recoupment of same, and REVERSED in part, as to the alleged IPV and attendant disqualification period, as discussed above.

Officially approved final version.

Natasha Johnson
Director

AUG 15 2019

