



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Assistant Commissioner

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 **02584-23 T.F.**

AGENCY DKT. NO. **C506815002 (BERGEN COUNTY BD. OF SOC. SVCS.)**

Petitioner Agency seeks a finding that Respondent committed an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"), and to impose a 12-month disqualification penalty from receipt of SNAP benefits. The Agency asserts that Respondent allowed her SNAP benefits to be used by an unauthorized third-party, who allegedly fraudulently exchanged those SNAP benefits for cash. Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against her, and the proposed disqualification penalty, via hand delivery, on March 1, 2023. See Exhibit P-1 at 8-9. 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 ("OAL") for a hearing as a contested case. *Id.* at 6-7. On April 18, 2023, the Honorable Jude-Anthony Tiscornia, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record was held open so that the ALJ could receive from Petitioner Agency, a copy of N.J.A.C. 10:87-2.7, which was referenced by Petitioner Agency at the hearing. The record then closed on April 19, 2023.

On April 20, 2023, 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 committed an IPV. See Initial Decision at 5. Specifically, the ALJ found that R.M., the father of Respondent's children, had retrieved Respondent's Electronic Benefits Transfer ("EBT") card without her knowledge, and made purchases using Respondent's SNAP benefits, also without her knowledge and authorization. *Id.* at 2-3; see also Exhibit P-1 at 1, 13, 14, 17-19. The ALJ also found that Respondent promptly reported the fraudulent use of her EBT card to the Agency, and identified R.M. as the individual who had fraudulently used her EBT card. See Initial Decision at 3.

The Agency argues further that Respondent committed an IPV when, on a previous occasion, she provided her EBT card, and the card's access code to R.M., for him to purchase food for her children, so that she could tend to an emergency medical situation involving her parent, who was diagnosed with terminal cancer. *Ibid.* The ALJ found that R.M. was acting as an emergency authorized representative when he received the card from Respondent with instructions to buy food for the children, and that the emergency authorization had ended when the emergency situation ended. See Initial Decision at 4-5,



and N.J.A.C. 10:87-2.7(c)(1). The ALJ further found that when R.M. made the purchases on November 14, 2022, those purchases were without Respondent's knowledge and thus outside the scope of the temporary authorization previously provided to R.M. See Initial Decision at 5.

Accordingly, based upon the record presented, and because the ALJ concluded that the Agency did not present clear and convincing evidence that Respondent had committed an IPV, no 12-month disqualification penalty from receipt of SNAP benefits was imposed against Respondent. Ibid.; see also N.J.A.C. 10:87-11.2(a)(1). I agree with the ALJ's conclusions in this matter.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, 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.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter.

Officially approved final version. June 28, 2023

Natasha Johnson
Assistant Commissioner

