



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
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TRENTON, NJ 08625-0716

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 11485-22 B.F.

AGENCY DKT. NO. C146172003 (BURLINGTON COUNTY BD. 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 household earned and unearned income, while he received SNAP benefits, thus causing Respondent to receive an overissuance of benefits to which he was not entitled. Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against him, and the proposed disqualification penalty, via certified mail, return receipt requested, on December 5, 2022. See Exhibits P-21, P-22. Because Respondent failed to execute and return the waiver of his right to a hearing, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing as a contested case. See Exhibit P-20. On February 13, 2023, the Honorable Kimberley M. Wilson, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. Respondent did not appear for the hearing, and the matter proceeded ex parte, which is permissible pursuant to our regulatory scheme. See N.J.A.C. 1:10-14.1(d). On February 17, 2023, Petitioner Agency submitted supplemental documentation to the OAL, and provided a courtesy copy to Respondent, via regular mail. Respondent was given ten days to present good cause for his failure to appear. Respondent did not respond, and the record then closed on February 23, 2023.

On March 6, 2023, the ALJ issued an Initial Decision, which found that the Agency had 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 he was not entitled. See Initial Decision at 17. Specifically, the ALJ found that Respondent, while receiving SNAP benefits, deliberately and intentionally did not report the receipt of earned income, and unearned income in the form of Unemployment Insurance Benefits, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$3,669.12, for the months of October, 2015, through April, 2016, July, 2016, November, 2016, through April, 2017, August, 2017, and February, 2019, through June, 2019. Id. at 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14; see also Exhibits P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-12, P-13, P-14, P-23; and N.J.A.C. 10:87-5.4(a)(1), -5.5(a)(2), -9.5.



Notably, as the Agency also sought to recoup SNAP benefits issued to Respondent, for the period of May, 2017 through July, 2017, in the amount of \$527, the ALJ found that the Agency did not meet its burden in establishing, by clear and convincing evidence, that Respondent was overissued SNAP benefits for those months. See Initial Decision at 17. The ALJ found that the record was devoid of any evidence that Respondent had earned income in those months, and that Petitioner did not produce any evidence demonstrating that Respondent should not have received SNAP benefits in May, June, and July, 2017. Ibid; see also Exhibits P-6, P-7. In its March 22, 2023, Exceptions, the Agency provided copies of paystubs showing that Respondent had, in fact, earned income for the period of May, 2017, through July, 2017. However, as these documents were not introduced before the ALJ at the hearing, I am not now permitted to consider these or other documents as evidence that were not submitted at the hearing for consideration by the ALJ. See N.J.A.C. 1:1-18.4(c). Accordingly, the ALJ reduced the original amount of overissued SNAP benefits Petitioner sought from Respondent, by excluding the months of May, June, and July, 2017, and concluded that the amount of overissued benefits Petitioner may recoup from Respondent totals \$3,669.12 ($\$4,196.12 - \$527 = \$3,669.12$).

As this was the first IPV committed by Respondent, the ALJ ordered the mandatory regulatory penalty of a 12-month disqualification from receipt of SNAP benefits, pursuant to N.J.A.C. 10:87-11.2(a)(1). See Initial Decision at 18.

Exceptions to the Initial Decision were filed by Petitioner on March 22, 2023.

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.

By way of comment, I have reviewed Petitioner's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

I direct that the Agency proceed to recoup the modified overissuance.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter, and ORDER that Respondent is disqualified from receipt of SNAP benefits for a period of 12 months. I further ORDER that the Agency is to recoup the overissuance.

Officially approved final version. May 31, 2023

Natasha Johnson
Assistant Commissioner

