



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
Lt. Governor

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 **06402-23 L.C.**

AGENCY DKT. NO. **C126237006 (CUMBERLAND 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 income, while she received SNAP benefits, thus causing Respondent to receive an overissuance of benefits to which she was not entitled and must be recouped. Respondent was properly noticed of the Administrative Disqualification Hearing (“ADH”), the charges against her, and the proposed disqualification penalty, via certified mail, return receipt requested, on June 9, 2023. See Exhibit P-1 at 4. 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. See Initial Decision at 3; see also Exhibit P-1 at 14-15. The case was scheduled before the Honorable Robert D. Herman, Administrative Law Judge (“ALJ”), on August 9, 2023. See Initial Decision at 2. Respondent arrived three hours late for the telephonic hearing, and as a result of the lateness and a non-receipt of the fair hearing packet, the ALJ postponed the matter until August 29, 2023. *Ibid.* On that date, the hearing began, testimony was taken, and the matter was carried until September 12, 2023. *Ibid.* On September 12, 2023, the hearing reconvened, and after fifteen minutes of waiting for Respondent, the matter proceeded *ex parte*, which is permissible pursuant to our regulatory scheme. *Ibid.*; see also N.J.A.C. 1:10-14.1(d). Respondent appeared telephonically an hour late, testimony concluded, and the record was then closed. *Ibid.*

On October 4, 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 intentionally withheld information from the Agency, thereby establishing an IPV and resulting in Respondent receiving SNAP benefits to which she was not entitled between February 2020 and June 2021. See Initial Decision at 9. However, the ALJ found that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent had committed and IPV after June 2021. *Ibid.* Specifically, the ALJ found that the record contained sufficient evidence to demonstrate that Respondent intentionally withheld facts from the Agency concerning earned income from her second job from February 2020 through June 2021, while receiving SNAP benefits. See Initial Decision at 7-9, 13; see also Exhibits P-1 at 2. However, the ALJ found that after June 2021, it was unclear from the facts presented if an IPV had occurred after



that date, or if an overpayment had occurred as a result of an inadvertent household error or an Agency error. See Initial Decision at 9, 13; see also N.J.A.C. 10:87-11.20(e).

Accordingly, based upon the record presented and the finding that an IPV had been committed, as outlined above, and since this was the first IPV committed by Respondent, the ALJ imposed a 12-month disqualification penalty from receipt of SNAP benefits. See Initial Decision at 13-15; see also N.J.A.C. 10:87-11.2(a)(1). I agree.

With the respect to the full and correct amount of the overissuance in this matter, the ALJ concluded that after June 2021, it was unclear from the record presented if an Agency error had occurred, which would impact the application of the earned income deduction in the overpayment calculations, and therefore, the ALJ remanded the matter back to the Agency to reevaluate and determine the correct overissuance amount. See Initial Decision at 14-15; see also N.J.A.C. 10:87-11.20(f)(1)(ii)(2). I agree and direct that, once the matter has been reevaluated, and the proper overissuance amount established, the Agency is to proceed to recoup the overissuance.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby ADOPT the Initial Decision, and REMAND this matter to the Agency, as outlined above.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter and REMAND the case to the Agency for reevaluation and calculation, as necessary, of the SNAP benefit overpayments for purposes of recoupment.

Officially approved final version. December 20, 2023

Natasha Johnson
Assistant Commissioner

