



## State of New Jersey

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*Governor*

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DIVISION OF FAMILY DEVELOPMENT  
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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 **04584-21 V.C.**

AGENCY DKT. NO. **S461671014 (MORRIS CO. DIV. EMP. & TEMP ASST)**

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP") program, and seeks to impose a 12-month disqualification penalty from receipt of SNAP benefits. The Agency asserts that Respondent failed to report a change in household income while she was receiving SNAP benefits, thus causing Respondent to receive an overissuance of benefits to which she was not entitled. Notably, in 2019, Respondent, via a recapture of a tax refund, has fully repaid the overissuance of SNAP benefits.

On April 16, 2021, 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. See Exhibits P-1, P-2. 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 Exhibit P-3 at 2-3. On June 8, 2021, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a telephonic hearing, took testimony, and admitted documents. On February 10, 2022, the matter was reopened for supplemental argument, and the record closed that day.

On February 10, 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 she was not entitled. See Initial Decision at 2, 3. Specifically, the ALJ found that Respondent intentionally failed to report earned income, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$1,052, for the period beginning November, 2015, through February, 2016. See Exhibit P-3 at 4-6, 8, 10, 11-14, 15-16, 20-22, and N.J.A.C. 10:87-5.4(a)(1), -9.5.

As the record in this matter reflected that Respondent had since paid back the overissuance of \$1,052 in full in 2019, the sole remaining issue before the ALJ was the imposition of the mandatory regulatory disqualification penalty. See Initial Decision at 2, 3; see also Exhibit P-3 at 41. While the ALJ found that



Respondent had committed an IPV when she did not report her earned income, the ALJ did not impose the disqualification penalty against Respondent, finding that she had repaid the overissuance, and a significant amount of time has elapsed from the original offense. See Initial Decision at 3. Accordingly, the ALJ did not impose 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). Ibid.

N.J.A.C. 10:87-11.2(a) provides, "Individuals found to have committed an IPV, through either an [ADH] or by a Federal, State or local court, ... shall be ineligible to participate in the program[.]" Further, N.J.A.C. 10:87-11.5(a)(7)(i) states, "If the final hearing decision, as affirmed by the [Division of Family Development] Director, has found that the individual has committed an IPV, the household member shall be disqualified in accordance with the disqualification period and procedures specified at N.J.A.C. 10:87-11.2." Pursuant to the foregoing regulatory authority, I find there is no discretion for an ALJ, in conducting an ADH and upon the finding of an IPV having been committed, to not impose the disqualification periods as stated in N.J.A.C. 10:87-11.2(a), and therefore, Petitioner is disqualified from receipt of SNAP benefits for a period of 12 months. See N.J.A.C. 10:87-11.2(a)(1). The Initial Decision is modified to reflect this finding.

Additionally, with respect to a matter alleging an IPV, the Agency is responsible for initiating an administrative disqualification hearing. See N.J.A.C. 10:87-11.1. Accordingly, as the Agency is the party requesting relief in an IPV case, it is the "Petitioner." See N.J.A.C. 1:1.2.1, "Definitions." Conversely, the party responding to the Agency's request for relief in an IPV case is the "Respondent." Ibid. Here, V.C., was incorrectly referred to as "Petitioner," when she was, in fact, the Respondent. The Agency was incorrectly referred to as "Respondent" throughout the Initial Decision, when it should have been referred to as Petitioner. The Initial Decision also modified so as to reflect the correct designation of the parties.

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, the Initial Decision is hereby MODIFIED, as outlined above.

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

Officially approved final version. April 5, 2023

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Natasha Johnson  
Assistant Commissioner

