



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

SHEILA Y. OLIVER
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 **03467-23 M.C.**

AGENCY DKT. NO. **C164058015 (OCEAN 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 household earned income, while receiving 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 March 27, 2023. See Exhibit P-1 at 1, 2-3. 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 for a hearing as a contested case. On May 23, 2023, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed. On June 12, 2023, the ALJ issued an Initial Decision, which found 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.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the Initial Decision and the record in this matter, and hereby MODIFY the ALJ's Initial Decision, based on the discussion below.

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).

Here, the ALJ found that Respondent intentionally did not report the receipt of earned income, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$1,875, for the period of March, 2019, through February, 2020. *Id.* at 2, 3, 4, 5; see also Exhibits P-2, P-3, P-4, P-5, P-6; and N.J.A.C. 10:87-5.4(a)(1), (2), -9.5.



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 5.

While I agree with the ALJ's finding, that Respondent committed an IPV of the SNAP program, thereby warranting disqualification from the receipt of SNAP benefits, I find that the standard of review on which the ALJ based that finding, specifically, by a preponderance of the credible evidence, is incorrect. Id. at 5. Pursuant to regulatory authority, the ALJ should have based the finding that Respondent had committed an IPV, on clear and convincing evidence. See N.J.A.C. 10:87-11.5(a)(6). Therefore, based upon my independent review of the record, I find that, based upon clear and convincing evidence, Respondent committed an IPV of the SNAP program, thereby warranting a 12-month disqualification from the receipt of SNAP benefits. The Initial Decision is modified to reflect this finding.

I direct that the Agency proceed to recoup the overissuance.

Accordingly, based upon the foregoing, I hereby MODIFY 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. June 27, 2023

Natasha Johnson
Assistant Commissioner

