



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 11671-22 M.B.

AGENCY DKT. NO. C236968020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner Agency charges Respondent, M.B., with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). Petitioner Agency also charges F.A. and F.H., as adult members living in the same household as M.B., with committing an IPV. The Agency asserts that M.B., F.A., and F.H., intentionally failed to accurately report household composition and income, while they received SNAP benefits, thus causing them to receive an overissuance of benefits to which they were not entitled. On October 16, 2022, the Agency provided Respondent, F.A., and F.H., with a Waiver of Right to Administrative Disqualification Hearing ("Waiver"), that they could sign and accept the penalty of a 12-month disqualification period from receipt of SNAP benefits, or request an Administrative Disqualification Hearing ("ADH"). See Initial Decision at 2; see also Exhibit P-4; and N.J.A.C. 10:87-11.2(e), -11.6(a)(2). Respondent, M.B., and F.H., signed the Waiver, admitting to the facts as alleged by Petitioner Agency, and also acknowledging that a 12-month disqualification penalty from receipt of SNAP benefits would be imposed against them individually. See Exhibit P-4. However, their executed Waivers were received by the Agency on November 22, 2022, which is beyond the required time frame as noted in the Waivers. *Ibid.*; see also N.J.A.C. 10:87-11.6(a)(1), (2). Because Respondents did not timely waive their right to a hearing, the Agency then notified Respondents on November 16, 2022, via certified mail, return receipt requested, that they were scheduled to appear for an ADH on January 19, 2023. See Exhibits P-1, P-2. On January 19, 2023, F.H. appeared, but Respondent and F.A. did not appear. Petitioner Agency did not have all documents necessary for the hearing, and F.H. requested that the hearing be rescheduled. On the rescheduled date of January 20, 2023, the Honorable Nanci G. Stokes, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record closed that day. Again, F.H. appeared, but Respondent and F.A. did not appear. The matter proceeded in their absence. See 7 C.F.R. 273.16(e) (4). Respondent and F.A. did not present good cause for their failure to appear.

On February 3, 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, F.A., and F.H., had deliberately and intentionally withheld information from the Agency, which resulted in them receiving an overissuance of SNAP benefits, to which they were not entitled. See Initial Decision at 6. Specifically, the ALJ found that



Respondent, F.A., and F.H. intentionally did not include F.A. as a member of the household, or include his earned income, which resulted in an overissuance of SNAP benefits in the amount of \$21,300 for the period beginning April, 2018, through December, 2021. Id. at 3, 4; see also Exhibits P-5, P-6, P-7, P-8, P-9, and N.J.A.C. 10:87-2.2, -5.4(a)(1), -9.5. The ALJ further found that Respondent, F.A., and F.H., have committed their first IPV, and ordered that pursuant to N.J.A.C. 10:87-11.2(a)(1), the mandatory regulatory penalty of a 12-month disqualification from receipt of SNAP benefits, be individually applied to all three. See Initial Decision at 7.

While I agree with the ALJ that Respondent M.B. committed an IPV, when she failed to report F.A. as part of the household and his employment income, and therefore, should be disqualified from receiving SNAP benefits for a period of 12 months, I respectfully disagree with the ALJ's finding that F.A. and F.H. should also be disqualified for 12 months from receiving SNAP benefits. Pursuant to applicable regulatory authority, an Agency shall only disqualify the individual found to have committed the IPV, and not the entire household. See N.J.A.C. 10:87-11.2(k). Here, the record indicates that Respondent M.B. completed the SNAP application, and the redetermination application, and did not report F.A. as part of the household, and did not include F.A.'s income from employment. See Initial Decision at 3; see also Exhibits P-5, P-6. The ALJ found that M.B. was required to report this income, and that her failure to report it resulted in excess SNAP benefits paid to the household. Ibid. Therefore, based upon my independent review of the record, I find that Respondent M.B. alone committed an IPV, and must be disqualified from receipt of SNAP benefits for 12 months. However, I also do find that, in accordance with applicable regulatory authority, F.A. and F.H., as adult members found to be living in the household at the time when the overpayment of SNAP benefits occurred, are also responsible for repayment of the SNAP benefits overpayment totaling \$21,300. See N.J.A.C. 10:87-11.2(k), -11.20(d)(1). The Initial Decision is modified to reflect these findings.

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 the Initial Decision, based upon the discussion above.

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 M.B. 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. March 23, 2023

Natasha Johnson
Assistant Commissioner

