



State of New Jersey

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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 **10463-22 M.C.**

AGENCY DKT. NO. **C262786020 (UNION COUNTY DIVISION OF SOC. SVCS.)**

Petitioner Agency charges Respondents, E.P. and M.C., with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondents intentionally failed to accurately report household composition, while they received SNAP benefits, thus causing Respondents to receive an overissuance of benefits to which they were not entitled. Respondents were noticed of the Administrative Disqualification Hearing ("ADH"), the charges against them, and the proposed disqualification penalties, via certified mail, return receipt requested, on October 18, 2022. See Initial Decision at 2. Because Respondents failed to execute and return the waiver of their right to a hearing, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. On December 6, 2022, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), ordered that the matters filed against Respondents individually, be consolidated. See Initial Decision at 2; see also N.J.A.C. 1:1-17.3. Thereafter, on that same date, the ALJ held a telephonic plenary hearing, took testimony, and admitted documents.

On December 7, 2022, the ALJ issued an Initial Decision, which found that the Agency had met its burden in establishing, by clear and convincing evidence, that Respondent E.P. had deliberately and intentionally withheld information from the Agency, which resulted in Respondents receiving an overissuance of SNAP benefits, to which they were not entitled. See Initial Decision at 4. Specifically, the ALJ found that E.P. intentionally did not include M.C. as a member of the household, although he had lived there when she applied for SNAP benefits in April, 2022, which resulted in an overissuance of SNAP benefits to Respondents in the amount of \$1,611.99 for the period beginning April 1, 2022, through July 31, 2022. Id. at 3, 4; see also Exhibits P-1, P-3, P-4, and N.J.A.C. 10:87-2.2, -9.5. I agree with the ALJ's finding.

The ALJ also found that M.C., as an adult member living in the household, did not commit an IPV, and therefore, was not responsible for repayment of the SNAP benefits overpayment, because he did not make a false or misleading statement, as he was not aware that E.P. had applied for SNAP benefits, and moreover, he ceased residing with E.P. after May or June, 2022. See Initial Decision at 4; see also N.J.A.C. 10:87-11.2(k), -11.20(d)(1). I agree with the ALJ's finding.



As this was the first IPV committed by E.P., 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 4.

While I agree with the final conclusions of the ALJ in this matter, I am modifying this Initial Decision for the following reason. 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. In the Initial Decision, E.P. and/or M.C., were incorrectly referred to as "Petitioner(s)," when they were, in fact, the Respondent(s). The Agency was incorrectly referred to as "Respondent" throughout the Initial Decision, when it should have been referred to as "Petitioner." The parties are correctly identified in this Final Agency Decision. Accordingly, the Initial Decision is 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, while I concur with the ALJ's Findings of Fact and Conclusion of Law in this matter, I am MODIFYING 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 E.P. is disqualified from receipt of SNAP benefits for a period of 12 months. I further ORDER that the Agency is to recoup the overissuance from E.P.

Officially approved final version.

January 12, 2023

Natasha Johnson

Assistant Commissioner

