



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
Commissioner

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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 **10543-22 S.S.**

AGENCY DKT. NO. **C171153020 (UNION COUNTY DIVISION 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 improperly used her SNAP benefits during a period from January, 2021, through June, 2021. On August 11, 2022, 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 Exhibit P-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 Exhibit P-3. On December 16, 2022, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), began the telephonic hearing, took testimony, admitted documents. The hearing was completed on January 5, 2023, and the record then closed. Respondent did not appear for either of the hearing dates, and the matter proceeded ex parte, which is permissible pursuant to our regulatory scheme. See N.J.A.C. 1:10-14.1(d). On March 21, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination that Respondent committed an IPV.

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, as discussed below.

An IPV consists of having intentionally committed any act that constitutes a violation of the NJ SNAP program rules, for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of benefits. See N.J.A.C. 10:87-11.3(a)(2). 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).

The record in this matter indicates that Respondent had participated in the transferring or trafficking of SNAP benefits. See Initial Decision at 3. The ALJ found that Respondent's SNAP history of spending large amounts of SNAP benefits within a few days of the prior transaction, indicate that she either sold,



or shared, her SNAP benefits with others. Id. at 2-3; see also Exhibits P-1, P-2, P-5 at 5, 6, and N.J.A.C. 10:87-11.3(a)(2). Having found Respondent to have committed an IPV by trafficking her SNAP benefits for an aggregate amount in excess of \$500, the ALJ concluded that Respondent should be permanently disqualified from participating in the SNAP program. See Initial Decision at 3.

While I agree with the ALJ's finding, that Respondent committed an IPV of the SNAP program by trafficking her SNAP benefits, thereby warranting disqualification from the receipt of SNAP benefits, I disagree with the imposition of a permanent disqualification against Respondent, for the following reasons. Pursuant to regulatory authority, only individuals found by a Federal, state or local court of having trafficked benefits for an aggregate amount of \$500.00 or more, shall be permanently ineligible to participate in the SNAP program. See N.J.A.C. 10:87-11.2(d). Here, at the conclusion of the January 5, 2023, ADH, Respondent was found to have committed an IPV, and therefore, is subject to the disqualification penalties individuals receive when they have been found to have committed an IPV, as the result of an ADH. See N.J.A.C. 10:87-11.2(a). Based upon my independent review of the record, and since this is Respondent's first IPV, I find that Respondent shall not be permanently disqualified from the receipt of SNAP benefits, but shall only be disqualified for a period of 12 months. See N.J.A.C. 10:87-11.2(a)(1). The Initial Decision is modified to reflect these findings.

Accordingly, I hereby MODIFY the Initial Decision in this matter, based upon the discussion above, and ORDER that Respondent is ineligible to participate in SNAP for a period of 12 months. I further ORDER that the Agency is to recoup the improperly transferred or trafficked benefits.

Officially approved final version. April 27, 2023

Natasha Johnson
Assistant Commissioner

