



## State of New Jersey

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TRENTON, NJ 08625-0716

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*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 **01645-23 V.L.**

AGENCY DKT. NO. **C232804009 (HUDSON COUNTY DIVISION OF WELFARE)**

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"), and the Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") program. The Agency asserts that Respondent intentionally failed to accurately report a change in household composition, while she received SNAP and WFNJ/TANF benefits, causing Respondent to receive an overissuance of benefits to which she was not entitled. 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, on July 24, 2019. See Exhibit P-1 at 1, 2-3. Because Respondent failed to execute and return either waiver of her right to a hearing, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. *Id.* at 4-5. On February 23, 2023, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a hearing, took testimony and admitted documents. On April 3, 2023, the ALJ issued an Initial Decision, reversing the Agency's alleged IPVs, the one-year and 6-month disqualification period from receipt of SNAP and WFNJ/TANF benefits, respectively. The ALJ affirmed the overissuance of SNAP and WFNJ/TANF benefits issued to Respondent, and affirmed that the Agency may recoup the overissuances.

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.

IPVs of the SNAP and WFNJ/TANF programs occur when benefits are issued as the result of an intentionally false or misleading statement, misrepresentation, concealment or withholding of facts. See N.J.A.C. 10:87-11.3(a)(1), (2), and N.J.A.C. 10:90-11.1(a). Allegations of an IPV are brought by the Agency through an ADH, which requires proof of advance notice of at least 30 days. See N.J.A.C. 10:87-11.5(a)(3), and N.J.A.C. 10:90-11.5(f). If the individual alleged to have committed an IPV does not waive their right to a hearing, and the matter then proceeds to an ADH, the ALJ shall then 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).

In the instance of an overpayment of SNAP benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. One type of overpayment which is subject to recoupment is one which results from “a misunderstanding or unintended error on the part of the household” receiving benefits, called an “Inadvertent Household Error” (“IHE”). See N.J.A.C. 10:87-11.20(e)(2). Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Similarly, under the WFNJ regulations, a recipient is required to satisfy any repayment obligation pursuant to state or Federal law governing public assistance. See N.J.A.C. 10:90-2.2(a)(7). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, “regardless of fault, including overpayments caused by administrative action or inaction[.]” See N.J.A.C. 10:90-3.21(a)(1).

Here, the Agency alleges that Respondent received and utilized SNAP and WFNJ/TANF benefits from the State of New Jersey (“NJ”), for two of her children, who were living and attending school in the State of North Carolina (“NC”), causing Respondent to receive an overpayment of \$4,302 in SNAP benefits, and \$1,667 in WFNJ/TANF benefits. See Initial Decision at 2, 3; see also Exhibit P-1 at 7-15, 16, 17-30. Respondent testified that, in the summer of 2021, she and her children left NJ because she was a victim of domestic violence, and that she fled to NC to live temporarily with her parents. See Initial Decision at 2. The ALJ found that Respondent’s temporary relocation to NC was due to emergent circumstances, and that the record is devoid of any credible evidence indicating that Respondent intentionally violated any of the SNAP and WFNJ/TANF IPV rules and regulations. *Id.* at 3. Based on the foregoing, the ALJ concluded that the Agency had failed to meet its burden, by clear and convincing evidence, that Respondent intentionally committed an IPV of the SNAP and WFNJ/TANF programs, specifically by making any false or misleading statements, or concealing any facts, and therefore reversed a purported Agency action disqualifying Respondent from receipt of SNAP and WFNJ/TANF benefits for 12 and 6 months, respectively. *Id.* at 4-5; see also Exhibit P-1 at 7-15, 16-30, see also N.J.A.C. 10:87-11.3(a)(1) and N.J.A.C. 10:90-11.1(a). While I agree with the ALJ’s conclusion that no IPV has been substantiated by clear and convincing evidence, no adverse action had yet occurred in this matter. Rather, it is through the ADH that the Agency seeks a finding that an IPV has been committed and the attendant penalties may thereby be imposed. As no IPV was established here, there is no adverse action to be reversed. The Initial Decision is modified to reflect this finding.

The ALJ also found that, while Respondent did not have the requisite intent to commit an IPV of the SNAP and WFNJ/TANF programs, Respondent’s receipt and use of SNAP and WFNJ/TANF benefits, to which she was not entitled, constitutes overissuances of said benefits which must be repaid. See Initial Decision at 3, 4; see also N.J.A.C. 10:87-11.20(a), (b), and N.J.A.C. 10:90-3.21(a). I agree with this finding.

I direct that the Agency proceed to recoup the overissuances.

By way of comment, 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, V.L., 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 parties are correctly identified in this Final Agency Decision. Accordingly, the Initial Decision is also modified so as to reflect the correct designation of the parties.



Accordingly, the Initial Decision in this matter is MODIFIED, and the Agency is ORDERED to proceed to recoup the overissuances, as outlined above.

Officially approved final version. May 02, 2023

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Natasha Johnson  
Assistant Commissioner

