



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
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 11784-23 A.G.

AGENCY DKT. NO. C030968002 (BERGEN COUNTY BD. 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 she was not entitled. Respondent was initially noticed of an April 21, 2020, Administrative Disqualification Hearing ("ADH,") the charges against her, and the proposed disqualification penalty, via certified mail, return receipt requested, on February 20, 2020. See Exhibits P-5, P-11. The Agency did not receive a return receipt signed by Respondent acknowledging receipt of the ADH notice. Accordingly, the Agency attempted to serve Respondent in person on March 3, 2020, but was unsuccessful again. On March 17, 2020, Petitioner notified Respondent that the ADH scheduled for April 21, 2020, had been cancelled until further notice, due to the onset of the COVID-19 pandemic. See Exhibit P-6. Thereafter, on October 7, 2023, Respondent was noticed of the ADH, rescheduled for November 28, 2023, via certified mail, return receipt requested. See Exhibits P-2, P-3, 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-14. On November 28, 2023, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ,") held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed.

On January 24, 2024, the ALJ issued an Initial Decision, which found that the Agency had met its burden in establishing, by clear and convincing evidence, that Respondent had deliberately and intentionally withheld information from the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits, to which she not entitled. See Initial Decision at 4. Specifically, 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 \$885, for the period beginning October, 2018, through February, 2019. *Id.* at 2, 4; see also Exhibits P-5, P-16, P-18, P-20, P-21; and N.J.A.C. 10:87-5.4(a)(1), -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 4.

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, based upon my independent review of the record, I find that pursuant to regulatory authority, Respondent must repay to the Agency, the amount of overissued SNAP benefits that she received, and was not entitled to. See N.J.A.C. 10:87-11.20. In this matter, I take official notice that Agency records indicate that the entire balance of \$885.00 in overissued SNAP benefits, was satisfied on January 22, 2024, when a final payment of \$170.00 was distributed to the Agency. Soon thereafter, the matter was closed, with Respondent having paid the entire



outstanding balance. However, Respondent is reminded that although the balance was paid in full, regulatory authority states that a disqualification penalty from receipt of SNAP benefits must be imposed, as she was found to have committed an IPV. The ALJ imposed the 12-month disqualification penalty, and I agree with the ALJ's finding. See Initial Decision at 4; see also N.J.A.C. 10:87-11.2(a)(1). The Initial Decision is modified to reflect this finding.

Additionally, 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 caption of the Initial Decision, A.G. was incorrectly referred to as "Petitioner," when she was, in fact, the Respondent. The Agency was incorrectly referred to as "Respondent," when it should have been referred to as "Petitioner." The parties were not identified as Petitioner or Respondent within the text of the Initial Decision; accordingly, it was not necessary to correct any party designations within the text of the Initial Decision itself, as none were used. Therefore, the Initial Decision is further modified to reflect the correct designation of the parties within the case caption of the Initial Decision, and in the list of Exhibits as noted in the Initial Decision.

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.

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.

Officially approved final version. March 21, 2024

Natasha Johnson
Assistant Commissioner

