



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
Commissioner

TAHESHA L. WAY
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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 14185-23 Z.M.

AGENCY DKT. NO. C192843009 (HUDSON COUNTY DIVISION OF WELFARE)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP.") The Agency also seeks to recoup an overpayment of SNAP benefits in the amount of \$3,017.56, as it asserts that Respondent improperly used her SNAP benefits during a period from May 10, 2021, through September 7, 2021 (hereafter, the "Relevant Time Period" or "RTP.") See Initial Decision at 2; see also Exhibit P-2 at 1. On October 19, 2023, 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 Exhibits P-8, P-9 at 1-2. On November 6, 2023, a subsequent notice was sent advising Respondent that a hearing was scheduled for January 2, 2024. See Exhibit P-2. 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 Exhibits P-3, P-9 at 3-4. On January 2, 2024, the Honorable R. Tali Epstein, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed.

On January 9, 2024, the ALJ issued an Initial Decision, which found that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent had committed an IPV, by participating in the transferring or trafficking of SNAP benefits. See Initial Decision at 4-5; see also N.J.A.C. 10:87-11.3(a)(2). Petitioner Agency contends that nearly all of Respondent's SNAP purchases made with Respondent's Electronic Benefits Transfer ("EBT") card during the RTP were processed manually, and that over a four-month period, there were instances where transactions occurred close in time on the same day. See Initial Decision at 3; see also Exhibits P-4, P-7. The ALJ found that the EBT transaction data alone did not rise to the level of clear and convincing evidence that Respondent committed an IPV. See Initial Decision at 5; see also N.J.A.C. 10:87-11.3(a)(2). Specifically, the ALJ found that Respondent had explained through her testimony, how and why the transactions were entered manually, and furthermore, that she had used her SNAP EBT card to make legitimate and eligible food purchases during the RTP, and that she never authorized the use of her EBT card by others. See Initial Decision at 5; see also N.J.A.C. 10:87-11.20(y). Accordingly, based upon the record presented, the ALJ concluded that Respondent did not commit an IPV, and dismissed the Agency action



seeking to disqualify Respondent from receipt of SNAP benefits, and seeking to recoup \$3,017.56 in previously issued SNAP benefits. See Initial Decision at 5; see also Exhibit P-2, and N.J.A.C. 10:87-11.2(a)(1). Based upon an independent review of the record, I agree.

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, I concur with the ALJ's decision, and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

By way of comment, Petitioner Agency sought to permanently disqualify Respondent from receiving SNAP benefits, as it alleged that Respondent had committed an IPV by trafficking her SNAP benefits. See Exhibits P-2, P-3; see also N.J.A.C. 10:87-11.20(y). 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). Hearings for individuals accused of IPV's are conducted through Administrative Disqualification Hearings. See N.J.A.C. 10:87-11.5(a). If, after this January 2, 2024, hearing, Respondent had been found to have committed an IPV, she would have been subject to the disqualification penalties individuals receive when they have been found to have committed an IPV, as the finding would not have come from a Federal, state or local court, but instead, an ADH. See N.J.A.C. 10:87-11.2(a).

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter.

Officially approved final version. January 31, 2024

Natasha Johnson
Assistant Commissioner

