



## State of New Jersey

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*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
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*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 11721-23 E.G.

AGENCY DKT. NO. C095410015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner Agency charges Respondents, E.G., and her husband, E.G., separately with committing intentional program violations (“IPV”) of the Supplemental Nutrition Assistance Program (“SNAP”). The Agency asserts that Respondents intentionally failed to report receipt of self-employment income, while receiving SNAP benefits, thus causing Respondents to receive an overissuance of benefits to which they were not entitled. Respondents were properly noticed of the Administrative Disqualification Hearing, the charges against them, and the proposed disqualification penalty, via hand delivery, on October 10, 2023. See Exhibit P-1. Because Respondents failed to execute and return the waiver of their right to a hearing, their separate matters were transmitted to the Office of Administrative Law (“OAL”) for hearings as contested cases. On November 14, 2023, at the commencement of the hearing, the Honorable Tricia M. Caliguire, Administrative Law Judge (“ALJ”), consolidated Respondents’ separate matters, docketed at OAL Docket Nos. HPW 11720-23 (E.G.), and HPW 11721-23 (E.G.). See N.J.A.C. 1:1-17.3(a). Thereafter, on that same date, the ALJ held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open for one week for the parties to submit additional documents in support of their positions. On November 21, 2023, the Agency filed a post-hearing letter brief; counsel for respondents failed to file a submission and the record then closed. On November 28, 2023, the ALJ issued an Initial Decision, which found that Respondents 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.

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.

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).



Here, the ALJ found that Respondents intentionally did not report the receipt of self-employment income as owners of three businesses, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$42,130, for the period of September 2015, through June 2021. Id. at 4; see also Exhibits P-2, P-3, P-4, P-5; and N.J.A.C. 10:87-5.4(a)(1), (2), -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 7.

While I agree with the ALJ's finding, that Respondents committed an IPV of the SNAP program, thereby warranting disqualification from the receipt of SNAP benefits, I find that the standard of review on which the ALJ based that finding, specifically, by a preponderance of the credible evidence, is incorrect. Id. at 7. Pursuant to regulatory authority, the ALJ should have based the finding that Respondents had committed an IPV, on clear and convincing evidence. See N.J.A.C. 10:87-11.5(a)(6). Therefore, based upon my independent review of the record, I find that, based upon clear and convincing evidence, Respondents committed an IPV of the SNAP program, thereby warranting a 12-month disqualification from the receipt of SNAP benefits. The Initial Decision is modified to reflect this finding.

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 Respondents are disqualified from receipt of SNAP benefits for a period of 12 months. I further ORDER that the Agency is to recoup the overissuance.

Officially approved final version. January 17, 2024

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Natasha Johnson  
Assistant Commissioner

