



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 **04580-22 A.S.**

AGENCY DKT. NO. **C510333002 (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 misrepresented her address in order to receive SNAP benefits simultaneously in two states, thus causing Respondent to receive an overissuance of benefits to which she was not entitled. On April 25, 2019, Respondent was properly sent notice, via certified mail, return receipt requested, of an initial Administrative Disqualification Hearing ("ADH"), scheduled for August 20, 2019, the charges against her, and the proposed disqualification penalty. The April 25, 2019, ADH notice was left unclaimed, and was not forwarded. As a result, because the Agency was unable to show proof of proper notice, the August 20, 2019, ADH was cancelled. See N.J.A.C. 10:87-11.5(a)(3)(i)(1), (2).

As a January 12, 2021, Agency investigation revealed that Respondent continued to receive SNAP benefits from multiple states, on January 27, 2021, the Agency advised Respondent that a Waiver of Right to Administrative Disqualification Hearing (hereinafter, "Waiver"), accepting the penalty of a 10-year disqualification period from receipt of SNAP benefits for receipt of SNAP benefits from multiple states, would be sent to her and that she could sign the Waiver and accept the penalty, or request an ADH. See Initial Decision at 2; see also Exhibit R-1 at 1; and N.J.A.C. 10:87-11.2(e), -11.6(a)(2). On February 16, 2021, Respondent signed the Waiver, admitting to the facts as alleged by Petitioner Agency, and also acknowledging that a 10-year disqualification penalty from receipt of SNAP benefits would be imposed against her. See Initial Decision at 2; see also Exhibit P-2 at 1-2. Respondent's signed waiver was received by the Agency on February 19, 2021, which is beyond the required time frame as noted in the Waiver. See Initial Decision at 2; see also Exhibit P-2 at 3-4, and N.J.A.C. 10:87-11.6(a)(1), (2). Because Respondent did not timely waive her right to a hearing, the Agency then notified Respondent on May 2, 2022, via certified mail, return receipt requested, that she was scheduled to appear for an ADH, scheduled on June 21, 2022. See Initial Decision at 1, 2; see also Exhibit P-2 at 5-6, 7-8, 9. On June 21, 2022, the Honorable Thomas M. Betancourt, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. Respondent did not appear for the hearing, and the matter proceeded ex parte, which is permissible pursuant to our regulatory scheme. See N.J.A.C. 1:10-14.1(d). The record then closed on that date.



On that same date, 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 misrepresented information to the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits, to which she was not entitled. See Initial Decision at 8. Specifically, the ALJ found that Respondent intentionally applied for, and received, SNAP benefits in the State of New York, while still collecting SNAP benefits in New Jersey, during the periods of September, 2017, through May, 2020, and June, 2020, through September, 2020, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$16,633. Id. at 3, 8, 9; see also Exhibits P-3, P-4 at 1, P-5, P-6, P-7; and N.J.A.C. 10:87-3.2, -3.3. I agree with the ALJ's finding.

Additionally, because Respondent was found to have made a fraudulent statement or representation regarding her place of residence in order to receive multiple SNAP benefits, the ALJ concluded that Petitioner is ineligible to participate in the SNAP program for ten years pursuant to N.J.A.C. 10:87-11.2(e). See Initial Decision at 8-9; see also N.J.A.C. 10:87-3.18. I also agree with this finding.

No Exceptions to the Initial Decision were filed.

While I agree with the final conclusions of the ALJ in this matter, specifically, that Respondent committed an IPV, and that a 10-year disqualification period from receipt of SNAP benefits must be imposed against Respondent, I am modifying this Initial Decision for the following reason. 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, A.S., 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 modified so as to reflect the correct designation of the parties.

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.

I ORDER that Respondent is disqualified from receipt of SNAP benefits for a period of 10 years. I further ORDER that the Agency is to recoup the overissuance.

Officially approved final version.

July 7, 2022

Natasha Johnson
Assistant Commissioner

