



## State of New Jersey

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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 **07415-22 D.K.**

AGENCY DKT. NO. **C155788003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"), and seeks an imposition of a 10-year disqualification period from receipt of SNAP benefits against Respondent. 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. Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against her, and the proposed disqualification penalties, via certified mail, return receipt requested, on July 18, 2022. See Exhibits P-17, P-18. 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 ("OAL") for a hearing as a contested case. See Exhibit P-16 at 171-172. On September 14, 2022, the Honorable Susan L. Olgati, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record then closed. Thereafter, the ALJ reopened the record, and rescheduled the hearing date to September 20, 2022. Respondent confirmed her availability for the rescheduled hearing date. On that rescheduled hearing date, the ALJ was to advise the parties that the ALJ neglected to inform Respondent that she had a right not to answer questions during the hearing, and that anything said by Respondent could be used against her in a court of law. However, Respondent did not appear on the rescheduled date of September 20, 2022, and the record closed again that day. Respondent did not contact the OAL to explain her failure to appear on September 20, 2022.

Exceptions to the Initial Decision were filed by Petitioner Agency on October 13, 2022.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the Initial Decision and the record, and hereby MODIFY the ALJ's Initial Decision, as outlined below.

IPVs occur when SNAP benefits are issued as the result of an intentionally false or misleading statement, misrepresentation, concealment or withholding of facts, or when SNAP benefits are



improperly used, presented, transferred, acquired, possessed, received or trafficked. See N.J.A.C. 10:87-11.3(a)(1), (2).

An individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the program for a period of 10 years. See N.J.A.C. 10:87-11.2(e).

On October 11, 2022, the ALJ issued an Initial Decision in this matter. The ALJ concluded that the Agency had met its burden in establishing, by clear and convincing evidence, that Respondent had committed an IPV of the NJ SNAP program under N.J.A.C. 10:87-11.2(a)(1), by deliberately and intentionally misrepresenting information to the Agency, which resulted in an overissuance SNAP benefits to Respondent in the amount of \$2,772, for the period beginning July, 2017, through January, 2018. *Id.* at 7; see also Exhibits P-7, P-8.

With respect to the appropriate disqualification penalty, the Agency asserted that a 10-year period of disqualification from receipt of SNAP benefits was warranted. See Initial Decision at 2; see also N.J.A.C. 10:87-11.2(e). The ALJ, however, opined that the evidence did not sufficiently demonstrate that Respondent made a fraudulent statement regarding her identity or residence, in order to concurrently receive SNAP benefits in more than one state, here, New Jersey (“NJ”) and Pennsylvania (“PA”). *Ibid.*; see also Exhibit P-5. Rather, the ALJ found that Respondent’s failure to disclose the fact that when she had applied for SNAP benefits in NJ, SNAP benefits were also being issued to her in PA, constituted only an intentional misrepresentation, resulting in Respondent receiving an overissuance of benefits, to which she was not entitled. See Initial Decision at 8-9. On this basis, and 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, and reversed the Agency’s imposition of a 10-year disqualification period from receipt of SNAP benefits against Respondent. See Initial Decision at 9; see also N.J.A.C. 10:87-11.2(a)(1).

However, based upon an independent review of the record, while I agree with the ALJ that Respondent committed an IPV, I respectfully disagree with the ALJ’s conclusion that the record does not support a finding that Respondent made a fraudulent statement regarding her residency in order to receive SNAP benefits in NJ and PA simultaneously, and therefore, I disagree with the ALJ’s imposition of a 12-month, rather than a 10-year, disqualification period, from receipt of SNAP benefits against Respondent.

First, pursuant to applicable Federal and state regulatory authority, a household shall live in the State in which it files an application for participation, and no individual may participate as a member of more than one household, in any month. See 7 C.F.R. 273(a), and N.J.A.C. 10:87-3.2(a). Second, Federal regulatory authority also dictates that it is the responsibility of the household to report changes in residence. See 7 C.F.R. 273.12(a) (iii); see also N.J.A.C. 10:87-9.5 (a), (b)(1)(iv) (stating that households must report changes which affect eligibility, including changes in residence).

Based upon my independent review of the record, I find that in July, 2017, when Respondent applied for SNAP benefits in NJ, while it was her statutory obligation to do so, Respondent intentionally did not report to the Agency that she was receiving SNAP benefits from PA. While the ALJ found that this omission of fact did not constitute a fraudulent statement, I find that Respondent’s failure to advise the Agency that she was receiving SNAP benefits in PA, constitutes a fraudulent representation with respect to Respondent’s residence, which allowed her to receive SNAP benefits from NJ and PA. See N.J.A.C. 10:87-11.2(e). Moreover, this finding is bolstered by the fact that it was not only one or two months of concurrent, overlapping SNAP benefits in two states which Respondent received, but a total of seven months. See Initial Decision at 3.

Accordingly, I agree with the ALJ, 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 was not entitled, resulting in an IPV being committed. See Initial Decision at 8-9. However, as discussed above, I conclude and find that Respondent made a fraudulent representation with respect to her place of residence in order to receive SNAP benefits in NJ and PA, and therefore, I find that Respondent is ineligible to participate in the SNAP program for a period of 10 years. See Exhibits P-1, P-4, P-5, P-6, P-7, P-8; see also 7 C.F.R. 273(a), -273.12(a)(iii), and N.J.A.C. 10:87-3.2(a), -9.5. The Initial Decision is modified to reflect these findings.

Finally, the ALJ also concluded that J.G., Respondent's adult child and member of Respondent's household at the time of Respondent's July 17, 2017, application for SNAP benefits in NJ, is also responsible for the repayment of the \$2,772, overissuance of SNAP benefits. See Initial Decision at 9; see also N.J.A.C. 10:87-11.20(d)(1). I agree with this conclusion by the ALJ.

Based on the foregoing, the Initial Decision in this matter is hereby MODIFIED, based upon the discussion above. I further ORDER that Respondent is hereby disqualified from receipt of SNAP benefits for a period of 10 years. I also ORDER that the Agency is to recoup the overissuance.

Officially approved final version.

November 10, 2022

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Natasha Johnson

Assistant Commissioner

