



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
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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 **03413-22 J.H.**

AGENCY DKT. NO. **S442212014 (MORRIS CO. DIV. EMP. & TEMP ASST)**

Petitioner Agency seeks a finding that Respondent committed an intentional program violation (“IPV”) of the Supplemental Nutrition Assistance Program (“SNAP”). The Agency asserts that Respondent failed to accurately report income from employment, thus causing Respondent to receive an overissuance of benefits to which he was not entitled. Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against him, and the proposed disqualification penalties, via certified mail, return receipt requested, on March 31, 2021. See Exhibit P-1 at 3-4, 7. In addition, Respondent was advised that if he did not appear at the hearing, a decision would be rendered based solely on information provided by the Agency. *Id.* at 3. Because Respondent failed to execute and return the waiver of his right to a hearing, the matter was transmitted to the Office of Administrative Law (“OAL”) for a hearing as a contested case. *Id.* at 5-6. On May 24, 2022, the Honorable William J. Courtney, 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).

No Exceptions to the Initial Decision were filed.

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 shall consist of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts. See N.J.A.C. 10:87-11.3. The ALJ shall base the determination 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).

On May 25, 2022, the ALJ issued an Initial Decision, which found that Respondent had intentionally failed to accurately report income from employment, which resulted in Respondent receiving an overissuance of SNAP benefits to which he was not entitled. See Initial Decision at 2. Thereafter,



the ALJ affirmed the Agency's imposition of a 12-month disqualification period from receipt of SNAP benefits against Respondent. Ibid.; see also N.J.A.C. 10:87-11.2(a)(1).

Notably, on June 7, 2022, the Bureau of Administrative Review and Appeals ("BARA") at DFD received a letter from Petitioner requesting to appeal the Initial Decision due to "some error with [Respondent's] case." BARA attempted to reach Respondent via telephone to gather additional information, and left a voicemail message instructing Respondent to contact BARA. To date, Respondent has not contacted BARA.

While I agree with the conclusion of the ALJ in this matter, specifically, that a 12-month disqualification period from receipt of SNAP benefits must be imposed against Respondent, I am modifying this Initial Decision for several reasons. First, pursuant to applicable regulatory authority, a finding that Respondent committed, and intended to commit an IPV, shall be based upon on clear and convincing evidence. See N.J.A.C. 10:87-11.5(a)(6). Accordingly, based upon my independent review of the record, I find 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 he was not entitled. Specifically, I find that Respondent intentionally did not accurately report earned income while receiving SNAP benefits, which resulted in an overissuance SNAP benefits to Respondent in the amount of \$1,360, for the period beginning December, 2017, through November, 2018. See Initial Decision at 2; see also Exhibit P-1 at 9-14, 34-35, 55-62, 63-65, and N.J.A.C. 10:87-5.4, -9.5. The Initial Decision is modified to reflect these findings.

Second, 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, J.H., was incorrectly referred to as "Petitioner," when he 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 also modified so as to reflect the correct designation of the parties.

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. See Initial Decision at 2, and N.J.A.C. 10:87-11.2(a)(1).

Accordingly, 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 12 months. I also ORDER that the Agency is to recoup the overissuance.

Officially approved final version.

June 29, 2022

Natasha Johnson
Assistant Commissioner

