



## State of New Jersey

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*Governor*

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 **09327-25 K.W.**

AGENCY DKT. NO. **C398068007 (ESSEX COUNTY DEPT. OF CITIZEN SVCS.)**

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV"), as defined by N.J.A.C. 10:87-11.3 and 7 C.F.R. 273.16(c), of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent improperly and intentionally misused her SNAP benefits from November, 2022 to April, 2023. It appears that receipt of the Administrative Disqualification Hearing notice, the charges against Respondent, and the proposed disqualification penalty were confirmed by the Agency investigator telephonically with Respondent on May 15, 2025. See Exhibit P-1; see also N.J.A.C. 10:87-11.5(a)(3)(i) and 7 C.F.R. 273.16(e)(3)(i). 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. On June 9, 2025, the Honorable Thomas R. 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 regulation. See N.J.A.C. 1:10-14.1(d), N.J.A.C. 10:87-11.5(a)(4)(i), and 7 C.F.R. 273.16(e)(4).

On June 9, 2025 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 8; see also N.J.A.C. 10:87-11.3(a)(2).

The Agency shall be responsible for investigating any case of alleged IPV, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the proper procedures. See N.J.A.C. 10:87-11.1(a). Administrative disqualification procedures or referral for prosecution action shall be initiated by the Agency in cases in which it has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of IPV as defined at N.J.A.C. 10:87-11.3(a). In the instance of an IPV, the ALJ shall base the determination of an IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined above. See N.J.A.C. 10:87-11.5(a)(6).

Here, the Agency received a benefit trafficking referral regarding Respondent which included a series of Electronic Benefit Transfer ("EBT") transactions made at a mini-market between November, 2022 and April, 2023, totaling \$1,083.42. See Initial Decision at 2; see also Exhibit P-1. Following the referral, the Agency investigator interviewed Respondent, who denied the allegations. Ibid. The Agency investigator was unable to provide any testimony at the time of the hearing as to why Respondent's SNAP benefit usage was considered to be trafficking. See Initial Decision at 2. The sole evidence presented by the Agency was a printout listing the EBT transactions made by Respondent at a particular mini-market over a six-month period of time. See Initial Decision at 8. Based on the foregoing, the ALJ found that the EBT transaction



data alone did not rise to the level of clear and convincing evidence required to establish that Respondent had, in fact, committed an IPV. See Initial Decision at 8; see also N.J.A.C. 10:87-11.3(a)(2). Accordingly, based upon the record presented, the ALJ concluded that Respondent did not commit an IPV. See Initial Decision at 8; see also Exhibit P-1, and N.J.A.C. 10:87-11.2(a)(1). Based on an independent review of the record, I agree.

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 caption of the Initial Decision, K.W. was incorrectly referred to as "Petitioner," when she was, in fact, the Respondent. The Agency was incorrectly referred to as "Respondent," when it should have been referred to as "Petitioner." Additionally, the parties were identified as Petitioner or Respondent within the text of the Initial Decision; thus, it is also necessary to correct any party designations within the text of the Initial Decision itself. Therefore, the Initial Decision is further modified to reflect the correct designation of the parties within the case caption of the Initial Decision, within the body of the Initial Decision, and in the list of Exhibits as noted in the Initial Decision.

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, 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. See 7 C.F.R. 273.16(e)(6).

By way of comment, the Agency is reminded of its responsibilities in representation and presentation of a matter at a plenary hearing before an ALJ, pursuant to N.J.A.C. 10:87-8.15 which states, "[t]he [Agency] shall appoint a representative to appear at the hearing who shall be [an Agency] representative who is familiar with the case and issue(s) involved in the hearing."

Accordingly, the Initial Decision is hereby MODIFIED, as outlined above.

Officially approved final version. June 16, 2025

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Natasha Johnson  
Assistant Commissioner

