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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

AMENDED DECISION

OAL DKT. NO. HPW **05953-26 A.R.**

AGENCY DKT. NO. **C071655020** (**UNION COUNTY DIVISION OF SOC. SVCS.**)

A Final Agency Decision ("FAD") in this matter, was issued on July 30, 2026. That FAD is now being amended following receipt of Exceptions filed by counsel for the Petitioner Agency. Petitioner Agency contacted this office on August 10, 2026, following receipt of the July 30, 2026 FAD, indicating that the Initial Decision in this matter had not previously been received, and thereafter was granted leave by this office to submit Exceptions, which were received on August 14, 2026. The issues raised within the Exceptions require a de novo review of the matter and the issuance of this Amended FAD.

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 intentionally misrepresented her household income while she received SNAP benefits, 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 penalty, via certified mail, on March 19, 2026. See Exhibit P-6; 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 May 13, 2026, the Honorable Barbara Singer, Administrative Law Judge ("ALJ") held a telephonic plenary hearing, took testimony, and admitted documents. Respondent did not appear, and, as such, 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). Respondent was given ten days following the hearing, to present good cause for her failure to appear and on May 13, 2026, following the conclusion of the hearing, Respondent's daughter emailed the Office of Administrative Law indicating they could not log into the call for the hearing. See Initial Decision at 3. Based upon this representation, the hearing was rescheduled for June 17, 2026, at which time Respondent again did not appear. Ibid. No additional testimony was given, as the Agency's testimony was already in the record from the May 13, 2026 hearing date. Ibid. Respondent was given ten days following the June 17, 2026 hearing, to present good cause for her failure to appear. Ibid. Respondent presented no such good cause. Ibid.

On July 2, 2026, the ALJ issued an Initial Decision, finding that the Agency had failed to meet its burden in establishing, by clear and convincing evidence, that Respondent had deliberately and intentionally withheld information from the Agency, thereby constituting an IPV, which resulted in Respondent receiving an overissuance of SNAP benefits, to which she was not entitled. See Initial Decision at 6; see also N.J.A.C. 10:87-11.3(a), -11.5(a)(6), 7 C.F.R. 273.16(c)(1), and 7 C.F.R. 273.16(e)(4).

The Agency shall be responsible for investigating any case of an 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).

In the instance of an overpayment of benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. One type of overpayment which is subject to recoupment, and differs from an IPV, is one which results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Repayment of overissuances may be sought for amounts up to six years prior to the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, Respondent applied for SNAP benefits, on behalf of a household of two, and began receiving SNAP benefits for herself and her daughter. See Initial Decision at 3. The Agency thereafter verified the household's income both directly with the Respondent's daughter's employers and via earned income reports from the Department of Labor. Ibid. Utilizing such records, the Agency discovered that Respondent's daughter received income from numerous employers, and that no income had been reported from any of these employers from March, 2022 through November, 2024, while the household was in receipt of SNAP benefits. Ibid.; see also Exhibits P-1, P-2, P-4, P-5. In reviewing the documentary evidence submitted in this matter, the ALJ opined that the Agency's correspondence with Respondent failed to clarify that the employer/income information sought was for her daughter, L.R., rather than for Respondent. See Initial Decision at 3-4; see also Exhibit P-5.

Based upon the foregoing, the ALJ concluded that there was no proof that Respondent misrepresented, concealed, or withheld facts in order to obtain SNAP benefits. See Initial Decision at 4-6. Specifically, the ALJ opined that the Agency failed to prove that Respondent had intentionally failed to report her daughter's income. See Initial Decision at 5. Accordingly, based upon the record presented, and because the ALJ concluded that the Agency did not present clear and convincing evidence that Respondent had committed an IPV, the ALJ found that Respondent was not subject to a period of disqualification from SNAP benefits; however, the ALJ found that Respondent did not disclose the proper SNAP household income, and affirmed the Agency's finding of an overissuance by ordering that same be repaid. See Initial Decision at 4-6.

In the previously issued FAD, and based on an independent review of the record at that time, I agreed with the ALJ's conclusions in this matter that the overpayment of SNAP benefits occurred due to an IHE, rather than an IPV. Thus, based upon the finding of an IHE, rather than an IPV, I agreed with the ALJ that no disqualification period, pursuant to N.J.A.C. 10:90-11.1(a) and 11.2(a)(1), was to be imposed. Ibid.

Based upon review and consideration of the August 14, 2026 Exceptions submitted in this matter, a *de novo* review has been conducted. Such review indicates that Petitioner's household member, L.R., received earned income from several employers over the course of nineteen months from March, 2022 through November, 2024. None of L.R.'s earned income was reported to the Agency, and an overissuance of SNAP benefits, in the amount of $8,884.39 had been previously established by the Agency on January 29, 2025, and the overissuance amount is not in dispute. However, Respondent did not appear for the hearing in this matter. The Initial Decision in this matter reflects that there was no testimonial evidence presented by Respondent herself, or by L.R., and therefore, the ALJ did not have any legally competent evidence upon which to conclude that the Agency had failed to prove the IPV by clear and convincing evidence. See N.J.A.C. 1:1-15.5(b). Rather, it appears that the ALJ made a conclusion based on unsubstantiated conjecture. Therefore, having reviewed the Initial Decision, the documentary record and the submitted Exceptions in this matter, I find that the Agency's position, that Respondent committed an IPV, is supported by the record in this matter and as such, Respondent shall be subject to the mandatory 12-month disqualification from receipt of SNAP benefits. See N.J.A.C. 10:87-11.2(a)(1). The Initial Decision is modified to reflect the above findings.

Accordingly, based upon the foregoing, I hereby MODIFY the Initial Decision in this matter, and AFFIRM the Agency's determination as to the overissuance of SNAP benefits from an IPV. Further, as I have determined that an IPV was proven in this matter, a 12-month disqualification period, pursuant to N.J.A.C. 10:87-11.2(a)(1), shall be imposed. Therefore, I ORDER and direct that the Agency proceed to recoup the overissuance of any benefits that were issued from March, 2022, through November, 2024 and impose the proper disqualification period of 12 months.

Officially approved final version. October 07, 2026

Natasha Johnson
Assistant Commissioner