



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 13278-14 T.V.

AGENCY DKT. NO. S452143 (MORRIS CO. DIV. EMP. & TEMP ASST PR)

Petitioner Agency charges Respondent with committing an Intentional Program Violation ("IPV") of the New Jersey Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program. The Agency asserts that Respondent failed to report earned income while the assistance unit was receiving SNAP benefits, thus causing Respondent to receive benefits to which he was not entitled. Respondent was properly noticed of the Administrative Disqualification Hearing, the charges against him, and the proposed disqualification penalty via certified mail, return receipt requested. See Exhibit P-1. 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 for a hearing as a contested case. On October 28, 2014, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held an administrative disqualification 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).

On November 3, 2014, the ALJ issued her Initial Decision, which found that the Agency had met its burden in establishing, by clear and convincing evidence, that Respondent had intentionally withheld information from the Agency, which resulted in Respondent receiving benefits for which the household was not eligible, nor entitled. See Initial Decision at 3. As this was the first IPV committed by Respondent, the ALJ acknowledged the mandatory regulatory penalty of a twelve month disqualification from receipt of SNAP benefits pursuant to N.J.A.C. 10:87-11.2(a)(1). Ibid. However, the ALJ concluded that Respondent had effectively already served the disqualification, as it took the Agency over a year to bring the violations and

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Respondent had already repaid the amount of benefits wrongfully received. Ibid. The ALJ opined that "imposition of a further period of disqualification would serve no public purpose." Ibid.

No exceptions to the Initial Decision were filed.

As the Director of the 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, I concur with the ALJ's findings that the Agency has met their burden. However, I hereby MODIFY the ALJ's decision as to the imposition of the disqualification period. There is nothing in our regulatory scheme which allows for the disqualification period to have been deemed effectively served, particularly in light of the fact that Respondent chose not to waive his right to a hearing. As such, the disqualification period may not attach until such time as the IPV has been proven through the administrative disqualification hearing process. See N.J.A.C. 10:87-11.2(a) (stating that disqualification penalties are to be served after individuals are found to have committed an IPV).

Accordingly, based upon the foregoing, I hereby MODIFY the Initial Decision in this matter, and order that Respondent is ineligible to participate in the NJ SNAP for a period of twelve months.

Signed Copy on File
at DFD, BARA

NOV 19 2014

Jeanette Page-Hawkins
Director