



State of New Jersey

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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 02924-18 A.M.

AGENCY DKT. NO. C086936012 (MIDDLESEX COUNTY BD OF SOC SCVS)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent failed to disclose that she was receiving SNAP benefits in another state while she was receiving SNAP benefits in New Jersey ("NJ"), thus causing Respondent to receive said 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. See Exhibit P-1. 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 March 13, 2018, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a 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). The record remained open for 10 days for Respondent to show good cause for her failure to appear, and then closed on March 23, 2018.

On April 11, 2018, the ALJ issued an Initial Decision, which found 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 when she failed to disclose that she was receiving SNAP benefits from another state, which resulted in Respondent receiving an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 3-4; see also Exhibits P-10, P-11, P-12. Specifically, Respondent intentionally did not accurately disclose that she was receiving SNAP benefits from another state during the period of October 2015, through November 2015, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$989. See Initial Decision at 3-4; see also Exhibits P-4 through P-8, P-14, and N.J.A.C. 10:87-5.2(a)(1), -11.3, -11.20. Based on Respondent's failure to disclose, as discussed above, the Agency maintained that a 10-year disqualification penalty upon Respondent from receipt of SNAP benefits was warranted. See Initial Decision at 4; see also Exhibit P-2, and N.J.A.C. 10:87-11.2(e). However, the ALJ found that Respondent's failure to report receipt of SNAP benefits from another state was an omission of another source of benefits, not a fraudulent statement or representation with respect to her identify or place of residence, and as such, that the 10-year disqualification from receipt of SNAP benefits penalty asserted by the Agency was not justified. See Initial Decision at 7; see also Exhibit P-2, and N.J.A.C. 10:87-11.2(e). Therefore, 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 pursuant to N.J.A.C. 10:87-11.2(a)(1). See Initial Decision at 4.

While I agree with the ALJ's ultimate conclusion, I do find inconsistent statements in Respondent's applications for public assistance which may speak to intent to collect multiple, simultaneous, SNAP benefits. See Exhibits P-10, P-12; see also N.J.A.C. 10:90-11.2(e). Particularly, in Respondent's October 8, 2015, NJ application she stated that she had received



SNAP benefits in California in 2014, but omitted that she was receiving SNAP benefits in Arizona; and in her June 26, 2015, Arizona application for benefits she omitted having received SNAP benefits in California in 2014. See Initial Decision at 2-3; see also Exhibits P-10, P-12. On the other hand, it is unclear from the record how Respondent's Arizona SNAP case came to be closed, if it was closed timely, and how the Agency came to learn that the case was closed. See Initial Decision at 3; see also Exhibit P-11. Nevertheless, based on the record presented, I find that the Agency did not meet its burden of proof in establishing that Respondent's IPV warranted a 10-year regulatory penalty from receipt of SNAP benefits. See N.J.A.C. 10:90-11.2(e).

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 and independent evaluation of the record, I concur with the ALJ's decision and hereby adopt the Findings of Fact and Conclusion of Law.

I direct that the Agency proceed to recoup the overissuance.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter, and ORDER that Respondent is ineligible to participate in the SNAP for a period of 12 months. I further ORDER that the Agency is to recoup the overissuance.

Officially approved final version. **APR 27 2016**

Natasha Johnson
Director

