



State of New Jersey

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Director

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

REMAND DECISION

OAL DKT. NO. HPW 09111-17 M.M.

AGENCY DKT. NO. S569367012 (MIDDLESEX COUNTY BD OF SOC SCVS)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP") and the Work First New Jersey/General Assistance ("WFNJ/GA") programs. The Agency asserts that Respondent failed to report a change in household composition while he was receiving SNAP and WFNJ/GA benefits, 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 penalty via certified mail. See Exhibit P-1. On July 25, 2017, the Honorable Carl V. Buck, Administrative Law Judge ("ALJ"), held a hearing, took testimony, and admitted documents. A second day of testimony was taken on October 17, 2017, and thereafter, the parties were given until November 6, 2017, to submit additional documents. The record was then closed on November 20, 2017. On December 29, 2017, the ALJ issued an Initial Decision, affirming the Agency's determination.

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 REJECT the ALJ's Initial Decision and REMAND the matter to the Agency to reevaluate Respondent for an IPV on the basis that he failed to disclose earned income.

Here, the ALJ 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, which resulted in Respondent receiving an overissuance of SNAP and WFNJ/GA benefits to which he was not entitled. See Initial Decision at 12. Specifically, the ALJ found that Respondent intentionally did not accurately report a change in household composition by failing to report that his wife and three daughters became a part of his household unit, on July 27, 2015. *Id.* at 10. Although Respondent was married in 2012, the ALJ determined that Respondent's wife and children did not reside with Respondent until they moved permanently to the United States on July 27, 2015, despite Respondent's signed affidavit stating his wife and children had been living with him since March 27, 2014. *Id.* at 8-10; see



also Exhibits P-11, R-7. Therefore, because The Agency determined that Respondent's IPV began effective on March 27, 2014, and not July 27, 2015, the ALJ determined that the overpayment benefit amount could not be ascertained until a recalculation is completed by the Agency, taking into account the aforementioned change. See Initial Decision at 4, 12.

As this was the first IPV committed by Respondent, the ALJ ordered the mandatory regulatory penalties of a 12-month disqualification from receipt of SNAP benefits, pursuant to N.J.A.C. 10:87-11.2(a)(1), and a six month disqualification from the WFNJ program, pursuant to N.J.A.C. 10:90-11.11(a)(1). Id. at 12-13.

While I agree with the ALJ that Respondent failed to report a change in his household composition, and that his family began residing with him in July 27, 2015, I disagree that Respondent's failure to disclose such change resulted in an overissuance of SNAP and WFNJ/GA benefits, and the consequent IPV. Id. at 10, 12. Specifically, the record reflects that during the relevant time period of July 27, 2015, through December 2015, Respondent continued to receive SNAP benefits for a household of one, when he could have been receiving additional SNAP benefits for a household of four. See Exhibit P-5 at 7. Further, the record reflects that Respondent's wife did not have any source of income, such that Respondent would have received an overissuance of SNAP benefits while a WFNJ/GA recipient. See Exhibit P-3. Rather, had Respondent reported his change in household composition, he would have been eligible for an increase in SNAP benefits. Further, although it appears that Respondent would have been ineligible for WFNJ/GA benefits as of July 27, 2017, it is not clear from the record that Respondent intentionally withheld information regarding his household composition just so that he could continue to receive WFNJ/GA benefits, when his household appears to have been eligible for substantially more benefits if he had applied for WFNJ/Temporary Assistance for Needy Families ("TANF") benefits at that time. See Initial Decision at 12.

Rather, based on an independent review of the record, it appears that it was Respondent's failure to disclose earned income, beginning July 2013, that resulted the overissuance of SNAP and WFNJ/GA benefits, thereby warranting the filing of an IPV. See Exhibits P-2, P-4, P-5, P-6, P-9, P-12, and P-18; see also N.J.A.C. 10:87-5.2(a)(1), -11.1(a), -11.3(a)(1) and N.J.A.C. 10:90-1.13(b), -3.21(a), -11.1(a). However, the ALJ found, and the record substantiates, that the Agency's "Advance Notice of Administrative Disqualification Hearing" failed to notice Respondent of that particular basis for its IPV, and as such, the ALJ did not address the earned income issue. See Initial Decision at 6; see also P-1. Therefore, I am remanding the matter to the Agency to reevaluate Respondent for an IPV on the basis that he failed to disclose earned income.

Accordingly, based upon the foregoing, I hereby REJECT the Initial Decision in this matter, and REMAND the matter to the Agency based on the discussion above.

JUN 27 2018

Officially approved final version.

Natasha Johnson
Director

