



State of New Jersey

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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 07465-21 A.F.

AGENCY DKT. NO. C526605002 (BERGEN COUNTY BD. OF SOC. SVCS.)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent misrepresented her address in order to receive SNAP benefits simultaneously in two states, 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. See Exhibits R-4, R-5. 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. See Exhibit R-6. On September 30, 2021, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents. Respondent did not call in 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 then closed on that date. On October 6, 2021, the ALJ issued an Initial Decision, finding that Respondent committed an IPV, and that Petitioner Agency is entitled to recoup the amount of benefits that were overpaid. The ALJ further ordered that Respondent is disqualified from the receipt of SNAP benefits, for a period of 10 years.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the Initial Decision and the record, and hereby MODIFY the ALJ's Initial Decision, as outlined below.

IPVs shall consist of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts. See N.J.A.C. 10:87-11.3. The ALJ shall base the determination of an IPV on clear and convincing evidence which demonstrates that the household member committed, and intended to commit, an IPV. See N.J.A.C. 10:87-11.5(a)(6).



In the instance of an overpayment of SNAP benefits, the Agency must recoup the overissuance. See N.J.A.C. 10:87-11.20. Repayment of overissuances may be sought for up to six years following the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, the record reflects that the Agency had met its burden in establishing, by clear and convincing evidence, that Respondent had deliberately and intentionally misrepresented information to the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 3. Specifically, the ALJ found that Respondent intentionally applied for, and received, SNAP benefits in the State of New York, while still collecting SNAP benefits in New Jersey, during the period of May 1, 2019, through October 31, 2019, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$2,548. Id. at 2; see also Exhibits R-16, R-17, R-18 and N.J.A.C. 10:87-5.2(a)(1), -9.5. To date, the Agency has recovered \$245 in overissuance benefits, by way of allotment reductions, from SNAP payments to Respondent, leaving a balance of \$2,303, to be recouped by the Agency. See Exhibit R-17 at 2.

Additionally, because Respondent was found to have made a fraudulent statement or representation regarding her place of residence in order to receive multiple SNAP benefits, the ALJ concluded that Petitioner is ineligible to participate in the SNAP program for ten years pursuant to N.J.A.C. 10:87-11.2(e). See Initial Decision at 2, 3.

By way of comment, 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 Initial Decision, A.F., was incorrectly referred to as "Petitioner," when she was, in fact, the Respondent. The Agency was incorrectly referred to as "Respondent" throughout the Initial Decision, when it should have been referred to as Petitioner. The parties are correctly identified in this Final Agency Decision. Accordingly, the Initial Decision is modified so as to reflect the correct designation of the parties.

Based on the foregoing, the Initial Decision in this matter is MODIFIED, as discussed above. I ORDER that Respondent is ineligible to participate in the SNAP program for a period of ten years, and I further ORDER and direct the Agency to continue to recoup the overissuance.

Officially approved final version.

NOV 16 2021

Natasha Johnson
Assistant Commissioner

