



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 **05537-24 N.D.**

AGENCY DKT. NO. **C098975003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner Agency charges Respondent with committing intentional program violations ("IPVs") of the Supplemental Nutrition Assistance Program ("SNAP"), and the Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") program. The Agency asserts that Respondent intentionally failed to accurately report receipt of household earned income, while she received SNAP and WFNJ/TANF 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 ("ADH"), the charges against her, and the proposed disqualification penalty, via certified mail, restricted delivery, on April 17, 2024. See Exhibit P-19. Because Respondent failed to execute and return either 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 Exhibits P-14, P-15, P-16, and P-18. On May 22, 2024, the Honorable Sarah H. Sugent, Administrative Law Judge ("ALJ"), held a hearing, took testimony, admitted documents, and the record closed. On June 11, 2024, the ALJ issued an Initial Decision, finding that no IPVs had been committed, and as such, no 12-month and 6-month associated disqualification penalties from receipt of SNAP and WFNJ/TANF benefits, respectively, would be imposed.

Exceptions to the Initial Decision were filed by the Agency on June 18, 2024.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the Initial Decision and the record in this matter, and hereby MODIFY the ALJ's Initial Decision, based on the discussion below.

IPVs of the SNAP and WFNJ/TANF programs occur when benefits are issued as the result of an intentionally false or misleading statement, misrepresentation, concealment or withholding of facts. See N.J.A.C. 10:87-11.3(a)(1), (2), and N.J.A.C. 10:90-11.1(a). Allegations of an IPV are brought by the Agency through an ADH, which requires proof of advance notice of at least 30 days. See N.J.A.C. 10:87-11.5(a)(3), and N.J.A.C. 10:90-11.5(f). If the individual alleged to have committed an IPV does not waive their right to a hearing, and the matter then proceeds to an ADH, the ALJ shall then base the finding 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).

SNAP is designed to promote the general welfare and to safeguard the health and well-being of the population by raising the levels of nutrition among low-income households. See N.J.A.C. 10:87- 1.1(a). 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 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).



Similarly, under the WFNJ regulations, a recipient is required to satisfy any repayment obligation pursuant to state or Federal law governing public assistance. See N.J.A.C. 10:90-2.2(a)(7). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction[.]" See N.J.A.C. 10:90-3.21(a)(1).

Here, the ALJ found that the Agency did not meet its burden in establishing, by the requisite clear and convincing evidence, that Respondent had deliberately and intentionally withheld information from the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits, to which she not entitled. See Initial Decision at 6-7; see also N.J.A.C. 10:87-11.5(a)(6).

The Agency alleges that Respondent received a \$2,016 overissuance of SNAP benefits for the period of May, 2018 through August, 2018 and a \$1,271 overissuance of WFNJ/TANF benefits from June, 2018 through August, 2018. See Initial Decision at 2; see also Exhibits P-9, P-10.

The record in this matter reflects that Respondent began her employment on February 25, 2018, and was issued her first paycheck on March 16, 2018. See Initial Decision at 3. Respondent failed to report her new employment and receipt of earned income within the timeframe required and the Agency did not become aware of her employment or earned income until her June 5, 2018, interim reporting when Respondent produced paystubs. See Initial Decision at 3; see also Exhibits P-8, P-9, P-10, P-20, P-22; N.J.A.C. 10:87-11.20(c), (d) and N.J.A.C. 10:90-3.21(a). Respondent's WFNJ/TANF case closed on September 1, 2018, and her SNAP benefits were recalculated at that time to reflect her earned income. Ibid. The Respondent in this matter has received benefits since 2012, and the ALJ found Respondent's testimony credible that Respondent may not recall program details, such as reporting timelines, due to the length of time since her original application, and further found that this is also compounded by Respondent's limited English proficiency and that she did not receive assistance from an interpreter until the Agency began providing interpreting services within the past few years. See Initial Decision at 3-4. The ALJ found Respondent to be apologetic and noted that she did provide paystubs within a few months of beginning her employment during her interim reporting appointment, which does not suggest or support the assertion that she was intentionally withholding income information. See Initial Decision at 4.

Based on the foregoing, the ALJ concluded that the Agency had failed to meet its burden, by clear and convincing evidence, that Respondent had committed IPV of the SNAP and WFNJ/TANF programs, specifically by making any false or misleading statements, or concealing any facts, and therefore denied the imposition of disqualification penalties on Respondent from receipt of SNAP and WFNJ/TANF benefits for 12 and 6 months, respectively. See Initial Decision at 6-7; see also N.J.A.C. 10:87-11.3(a)(1) and N.J.A.C. 10:90-11.1(a). The ALJ found that Respondent did not have the requisite intent to commit an IPV of the SNAP and WFNJ/TANF programs. See Initial Decision at 6-7; see also N.J.A.C. 10:87-11.20(a), (b), and N.J.A.C. 10:90-3.21(a). I agree with this finding.

However, while I agree with the ALJ's finding, specifically that Respondent did not commit an IPV of the SNAP or WFNJ/TANF programs, and as such should not be disqualified from receipt of benefits pursuant to regulatory authority, nonetheless, based upon my independent review of the record, I do find that, in accordance with regulatory authority, Respondent must repay to the Agency, the amount of overissued SNAP and WFNJ/TANF benefits that she did, in fact receive, and was not entitled to. See N.J.A.C. 10:87-11.20 and N.J.A.C. 10:90-3.21. Accordingly, I am directing the Agency to recoup the overissued SNAP benefits paid to Respondent, in the amount of \$2,016 as well as the overissued WFNJ/TANF benefits paid to Respondent, in the amount of \$1,271.58. See Exhibits P-8, P-9, P-10, P-20, and P-22. Overissuances of benefits must be repaid, regardless of fault, as any overissuance of benefits cannot result in a windfall to Respondent. The Initial Decision is modified to reflect this finding.

By way of comment, I have reviewed the Exceptions filed by the Agency and I find that the arguments therein do not alter my decision in this matter.

I ORDER and direct that the Agency proceed to recoup the overissuances.

Accordingly, as outlined above, the Initial Decision in this matter is hereby MODIFIED, and no 12-month disqualification period for SNAP benefits, pursuant to N.J.A.C. 10:87-11.2(a)(1), shall be imposed and no 6-month disqualification period for WFNJ/TANF benefits, pursuant to N.J.A.C. 10:90-11.1(a), shall be imposed. The Agency shall proceed to recoup the overissued SNAP and WFNJ/TANF benefits.



Officially approved final version. June 27, 2024

Natasha Johnson
Assistant Commissioner

