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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 **09957-22 Z.R.**

AGENCY DKT. NO. **S734910009 (HUDSON COUNTY DEPT OF FAM SVCS)**

Petitioner challenges the correctness of the Respondent Agency's determination of overissuance and claim for recoupment of Supplemental Nutrition Assistance Program ("SNAP") benefits issued to Petitioner during the periods of September 2016 through September 2022. The Agency asserts that Petitioner's household received benefits to which it was not entitled, thus resulting in an overissuance of benefits which must be repaid. Because Petitioner appealed, via counsel, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing on November 3, 2022. On December 22, 2022, a telephone conference was held between the parties and the Administrative Law Judge ("ALJ") at which time Respondent and Petitioner were provided deadlines for the submission of legal briefs. Following submissions, a telephone conference was held on February 1, 2023, and thereafter, on February 17, 2023, Petitioner filed a motion for summary decision. On August 16, 2024, the Honorable William Courtney, ALJ issued an Initial Decision, granting Petitioner's motion for summary decision and reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the record in this matter and I hereby ADOPT the Initial Decision, and REVERSE the Agency determination, based on the discussion below.

Petitioner began receiving SNAP benefits at some time prior to May 22, 2001, and many years later reapplied for SNAP benefits in 2014, at which time her application was approved, and she was recertified for SNAP benefits approximately every six months thereafter until September 2022. See Initial Decision at 3; see also Pet. Cert. During September 2022, the Agency determined that Petitioner had been receiving SNAP benefits since 2014 in error, as it was asserted that she had been permanently disqualified from receiving SNAP years prior due to three intentional program violations ("IPVs"). Ibid. Upon discovery by the Agency of the benefits payments made to Petitioner, the Agency asserted an overpayment for six years of benefits via a SNAP Notice of Overpayment dated September 16, 2022. Ibid.; see also N.J.A.C. 10:87-11.20(f)(1)(i). Thereafter, Petitioner argued that she never received proper notice of the three alleged IPVs, nor proper notice that she was permanently disqualified from receiving SNAP benefits. Ibid.

The Agency contends that Petitioner was aware of an IPV via a May 7, 1997 correspondence, which the Agency references as Exhibit A; however, the Agency did not submit any Exhibit A, and the ALJ found that there is nothing presented in the record to establish that Petitioner committed an IPV on or around May 1997 nor any submitted evidence that Petitioner received notice of an IPV around this time. See Initial Decision at 3.



The Agency further contends that Petitioner was made aware of a subsequent IPV during April 2001, which the Agency references as Exhibit B; however, Exhibit B is from May 2001 and entitled "Waiver of Right to a Disqualification Administrative Visit." See Initial Decision at 3. On or about May 22, 2001, Petitioner received from the Agency, a "Waiver of Right to a Disqualification Administrative Visit," which was made available to her in both Spanish (Petitioner's only spoken and written language) and English. Ibid.; see also Pet. Exhibit A, Resp. Exhibit B. The May 2001 correspondence contends Petitioner violated SNAP benefits rules due to not reporting the income of a household member being employed from September 15, 1999 to March 31, 2000. See Initial Decision at 4; see also Pet. Exhibit A, Resp. Exhibit B. Here, the ALJ found that the May 22, 2001, correspondence is devoid of several pertinent and regulatory required notifications, is incomplete, and contains many fields of information which are blank rather than containing necessary information. See Initial Decision at 4-5; see also Pet. Exhibit A, Resp. Exhibit B.

The ALJ noted that the Agency further intended to rely on an Exhibit C regarding an IPV for Petitioner during October 2002, however, the Exhibit C attached is a "Report of Claim Determination" from October 16, 2001, which is in English

only. See Initial Decision at 5. The document has handwritten "3rd IPV-permanent disqualification plus \$75 monthly repayment until claim is paid in full." Ibid. The document is not signed by Petitioner and the ALJ did not find that the Agency submitted any evidence that Petitioner received this document, and the ALJ in fact points to Petitioner's assertion that this may be an internal Agency document rather than a document sent to Petitioner. See Initial Decision at 5; see also Pet. Cert.

On September 16, 2022, the Agency sent a notice, in Spanish, titled "Important Notice for Refund of Overpaid NJ SNAP Program Benefits" to Petitioner noting an administrative error and the amount of overissuance the Agency alleges Petitioner is responsible for due to receipt of SNAP benefits for which the Agency claims she was not entitled. See Initial Decision at 6. The ALJ found that the September 16, 2022 "Report of Claim Determination," stating the overissuance amount of \$11,308, is not signed by Petitioner and the Agency presents no evidence that Petitioner ever received the document. Ibid.

The ALJ concluded, through a very thorough analysis, that Petitioner should not be held liable for the overpayment of SNAP benefits as she has not been properly disqualified from SNAP. The Agency claims that, between 1997 and 2002, Petitioner received notice of three IPV's (alleged to have occurred May 1997, April/May 2001, and October 2001), as well as notice that she received a permanent disqualification from receipt of SNAP benefits. See Initial Decision at 9-12. Further, the Agency claims that Petitioner was aware of the three IPV notices, as well as her permanent disqualification, and that she improperly sought SNAP benefits during 2014; however, the ALJ found that the Agency provided no evidence that Petitioner received any notice of the alleged prior IPV's, nor any evidence that Petitioner actually committed three IPV's. Ibid. The analysis provided by the ALJ finds that the May 22, 2001 "Waiver of Right to a Disqualification Administrative Visit" document does not contain all the information required to provide Petitioner with sufficient notice pursuant to N.J.A.C. 10:87-11.3. See Initial Decision at 9,11. Further, the ALJ found that the document from October 16, 2001, "Food Stamp Program Report of Claim Determination" contains none of the information required by N.J.A.C. 10:87-11.7(f)(1) and that there is no evidence presented that it was received by Petitioner, nor that anything on the face of the document indicates a third IPV or permanent disqualification from receipt of SNAP benefits. See Initial Decision at 13. The ALJ concluded that there is no evidence presented that Petitioner was ever given notice of any alleged IPV on or around October 2001 or 2002, nor any notice she was being permanently banned from receipt of SNAP benefits. See Initial Decision at 14; see also N.J.A.C. 10:87-11.6(a)(2)(i) regarding Notice of Permanent Disqualification.

The ALJ found that without timely and adequate notice and the opportunity for an administrative disqualification hearing (or the proper opportunity to waive a hearing or enter into a disqualification consent agreement) for each IPV, the Agency cannot permanently disqualify Petitioner from SNAP as the Agency did not meet its burden of proof that Petitioner's benefits should have been terminated. See Initial Decision at 14-15; see also N.J.A.C. 10:87-11.1(a). I agree. Further, the ALJ concluded that Petitioner would not have applied for SNAP benefits in 2014, nor recertified repeatedly for such benefits over the span of many years, if she was aware that she was permanently barred from receipt of such benefits. See Initial Decision at 15, n5; see also N.J.A.C. 10:87-11.9 regarding the responsibilities of the Agency for reporting disqualified individuals.

The ALJ determined that if Petitioner were found to be liable for the overpayment of SNAP benefits, that the claim amount should be compromised as Petitioner's economic circumstances will not satisfy the claim amount within three years. See Initial Decision at 15-16; see also N.J.A.C. 10:87-11.20(m). Based upon the foregoing conclusion, that Petitioner was unaware of her permanent disqualification from SNAP, the ALJ in this matter found that Petitioner has no obligation to satisfy the payment of SNAP benefits from 2014-2022 as she did not improperly receive such benefits. I agree. Due to this finding, it is not necessary to render a decision as to a claim compromise.

Accordingly, the Initial Decision is hereby ADOPTED and the Agency determination is REVERSED, as outlined above.



Officially approved final version. November 21, 2024

Natasha Johnson
Assistant Commissioner

