



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 03465-18 A.B.

AGENCY DKT. NO. C136257015 (OCEAN COUNTY BOARD 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 failed to report earned income while she was receiving SNAP 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, 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 23, 2018, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), ALJ held the 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 ten days for Respondent to present good cause for her failure to appear. Respondent did not respond and the record then closed on April 2, 2018.

On April 16, 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 regarding earned income. See Initial Decision at 3. Specifically, in August 2015, Respondent did not advise the Agency on her Interim Reporting Form ("IRF") of her anticipated employment, nor did she advise the Agency, as required, within 10 days of her first paycheck on August 21, 2015, of the earned income. Ibid.; see also Exhibits P-3, P-4 and N.J.A.C. 10:87-9.5(b)(1)(i). Further, on April 12, 2016, Respondent submitted an application for recertification of SNAP benefits, and did not advise the Agency of the earned income she had received from her employment. See Initial Decision at 3; see also Exhibit P-5. The Agency maintains that Respondent's household received an overissuance of SNAP benefits for the period of November 2015, through October 2016, in the amount of \$7,500. See Initial Decision at 3; see also Exhibit P-2 at 1.

The ALJ in this matter concluded that Respondent's actions of withholding of information on August 17, 2015, and April 12, 2016, in order to continue receiving SNAP benefits for which she was not



entitled constituted an IPV as defined in N.J.A.C. 10:10:87-11.3(a)(1). See Initial Decision at 5; see also N.J.A.C. 10:87-5.2(a)(1), -9.5. However, the ALJ found that the \$7,500 overissuance, as determined by the Agency, was inaccurate. See Initial Decision at 3; see also Exhibit P-2 at 1. Without any clarification or support, the ALJ found that Respondent's income in November 2015, December 2015, January 2016, and February 2016, would have resulted in substantially reduced SNAP benefits, and concluded that the overissuance should therefore total \$5,096. See Initial Decision at 3. I respectfully disagree with the ALJ's conclusion.

The first step in determining eligibility for SNAP benefits is to determine an applicant's gross income, which amount shall be "compared to the monthly income eligibility standards at N.J.A.C. 10:87-12.4, for the appropriate household size" See N.J.A.C. 10:87-6.16(d)(2). N.J.A.C. 10:87-12.4 directs that we refer to the gross income standards as outlined in the Federal Register and effective October 1 of each year. 7 C.F.R. 273.9(a)(1)(i) then directs that, "[T]he gross income eligibility standards for SNAP shall be as follows: (i) [T]he income eligibility standards for the 48 contiguous States ... shall be 130 percent of the Federal income poverty levels" The levels, effective October 1, 2015, and reflected in Division of Family Development Instruction ("DFDI") 15-09-01, indicate that Respondent's earned income in November 2015, December 2015, January 2016, and February 2016, does, in fact, exceed the maximum allowable income threshold for her household size of 4 persons, or \$2,628. See DFDI 15-09-01 at 14; see also Exhibits P-2 and P-3. Therefore, Respondent was ineligible to receive SNAP benefits for those months, and the amounts received during those months must not be excluded from the final total of the amount of overissuance due. Accordingly, I find that the full amount of SNAP benefits received, for the months of November 2015, through October 2016, or \$7,500, constitute the correct overissuance in this matter. See Exhibit P-2. The Initial Decision is modified to reflect this finding.

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 5.

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 hereby MODIFY the ALJ's decision in this matter, as outlined above.

I direct that the Agency proceed to recoup the overissuance.

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

APR 20 2018

Officially approved final version.

Natasha Johnson
Director

