



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

REMAND DECISION

OAL DKT. NO. HPW 03466-18 D.M.

AGENCY DKT. NO. C147323015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") 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 failed to report his spouse/partner's earned income while the household was receiving SNAP and WFNJ/TANF 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 personal service. See Exhibit P-1. Because Respondent failed to execute and return the waiver of his 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"), held a 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 10 days for Respondent to show good cause for his failure to appear, and 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, failed to report earned income, which resulted in Respondent's household receiving an overissuance of SNAP and WFNJ/TANF benefits to which he was not entitled. See Initial Decision at 5-6. Specifically, Respondent intentionally did not accurately report his spouse/partner's earned income during the period of October 2015, through June 2016, which the Agency claims resulted in an overissuance of SNAP benefits to Respondent's household in the amount of \$1,644, and WFNJ/TANF benefits in the amount of \$3,816, for a total of \$5,460. Id. at 2-4; see also Exhibits P-3, P-4, and N.J.A.C. 10:87-5.2(a)(1), N.J.A.C. 10:87-9.5, and N.J.A.C. 10:90-3.21(a).

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 6. In addition, Respondent is subject to a six-month mandatory regulatory disqualification from the WFNJ program. Ibid.; see also N.J.A.C. 10:90-11.11(a)(1).

However, the ALJ concluded that the Agency's SNAP and WFNJ/TANF benefits overissuance calculations could not prove, from the evidence submitted, that the spouse/partner's income caused the household to be completely ineligible for SNAP and WFNJ/TANF benefits, or if said income rendered the household eligible for a reduced amount of benefits. See Initial Decision at 3. Therefore, the ALJ denied the Agency's demand for recoupment of the full \$1,644 SNAP, and \$3,816 WFNJ/TANF, benefits overissuances, and remanded the matter to the Agency for proof of said overpayments. Id. at 6-7; see also N.J.A.C. 10:87-11.20, and N.J.A.C. 10:90-3.21(a). I agree.

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 concur with the ALJ's decision and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter, and ORDER that Respondent is disqualified from receipt of SNAP benefits for a period of 12 months, and from receipt of WFNJ benefits for a period of six months.

Additionally, this matter is REMANDED to the Agency for review and recalculation of the appropriate overissuance amounts. When the appropriate overissuance amounts have been confirmed, I ORDER that the Agency is to recoup the overissuances.

Officially approved final version. MAY 07 2018

Natasha Johnson
Director

