



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 00901-18 J.F.

AGENCY DKT. NO. S444454014 (MORRIS CO. DIV. EMP. & TEMP ASST)

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV") of the New Jersey Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent failed to report earned income from her husband's second job while the household was receiving SNAP benefits, thus causing Respondent to receive 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, return receipt requested. 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 January 30, 2018, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held an administrative disqualification hearing, took testimony, and admitted documents into evidence. On February 6, 2018, the ALJ issued her Initial Decision, which found that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent committed an IPV.

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 findings that the Agency has not met its burden of proof in this case to establish that Respondent committed an IPV. Nevertheless, the overissuance must be recouped.

New Jersey 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 is caused by an unintended error on the part of the household receiving benefits, called an "Inadvertent Household Error." See N.J.A.C. 10:87-11.20(e)(2). 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).

The record in this matter reveals that Respondent failed to include earned income from her husband's second job on her December 8, 2014, Interim Reporting Form ("IRF"). See Initial Decision at 2, 5. The record further shows that the Agency discovered the overissuance in August 2015. Id. at 2; see also Exhibit P-5. Respondent's omission of earned income information resulted in an overissuance in the amount of \$390. See Initial Decision at 3; see also Exhibits P-2, P-6. Respondent does not contest the overissuance, or her responsibility to repay same. See Initial Decision at 1, n. 1. Rather, Respondent maintains that the omission, which lead to the overissuance, was not intentional, and as such,



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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), should not apply. See Initial Decision at 3.

The ALJ agreed, finding that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent had intentionally withheld information from the Agency. See Initial Decision at 5. Rather, the ALJ found Respondent's testimony credible that her failure to report her husband's income from his second job was inadvertent. Id. at 3, 5. As such, the ALJ concluded that the clear and convincing evidence supported that Respondent had not intentionally made a false statement on her December 8, 2014, IRF in order to obtain SNAP benefits to which she was not entitled, and, therefore, no IPV had been committed, and no disqualification period from SNAP benefits would be applied. Id. at 2, 5. The ALJ further concluded that, although Respondent's current household income makes the household ineligible for SNAP benefits, should their circumstances change, Respondent is not barred from reapplying for such benefits. Id. at 5. I agree, and find that the facts presented in this matter amount to an Inadvertent Household Error. See N.J.A.C. 10:87-11.20(e)(2).

I direct that the Agency proceed to recoup the overissuance.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision, and ORDER the Agency to recoup the overissuance. As no IPV has been found, Respondent is not subject to any disqualification period from receipt of SNAP benefits.

Officially approved final version.

FEB 15 2018

Natasha Johnson
Director

