



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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TRENTON, NJ 08625-0716

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 02600-20 S.S.

AGENCY DKT. NO. C086612015 (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 accurately report household 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 timely served with notice of the Administrative Disqualification Hearing, the charges against her, and the proposed disqualification penalty, via personal service, on January 30, 2020. See Exhibit P-1 at 1, 2-3. 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. *Id.* At 4-5. On March 6, 2020, the Honorable Judith Lieberman, 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). Respondent was given ten days from the date of the hearing to present good cause for her failure to appear. Respondent did not respond.

On March 27, 2020, 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 from the Agency, which resulted in Respondent receiving an overissuance of SNAP benefits to which she was not entitled. See Initial Decision at 6. Specifically, the ALJ found that Respondent intentionally failed to accurately report that she became employed in June, 2017, and had earned income, which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$1,327, for the period of July, 2017, through December, 2017. *Id.* at 2, 4, 6; see also Exhibits P-2, P-3, P-6; and N.J.A.C. 10:87-5.2(a)(1), -5.4(a)(1), -9.5. I agree.

The ALJ also found that the Agency did not meet its burden in establishing, by clear and convincing evidence, that Respondent intentionally made a false or misleading statement, or concealed facts, with regard to her failure to report earned income, in her April 2018 Interim Reporting Form ("IRF"), which resulted in an overissuance of SNAP benefits to Respondent in the amount of \$1,963, for the period of July, 2018, through October, 2018. See Initial Decision at 6; see also Exhibits P-2, P-5, and N.J.A.C.



10:87-11.3(a)(1). Specifically, the ALJ found that Respondent did not misrepresent her employment income in the April 2018 IRF, but instead, certified that her employment status had not changed since her prior application dated November 29, 2017. See Initial Decision at 6. Accordingly, the ALJ concluded that the Agency failed to meet its burden, by clear and convincing evidence, that Respondent committed an IPV when she submitted the April 2018 IRF. Ibid; see also N.J.A.C. 10:87-11.2(a)(1), -11.3.

However, based upon an independent review of the record, while I agree with the ALJ that Respondent did not have the requisite intent to commit an IPV when she submitted the April 2018 IRF, I nonetheless find that Respondent's receipt and use of the overissued SNAP benefits in the amount of \$1,963, for the period of July, 2018, through October 2018, resulted in an improper windfall to her benefit, as these were monies to which she was not entitled, and therefore, must be repaid. See N.J.A.C. 10:87-11.20(a), (b), (e)(3); see also Exhibit P-2. Accordingly, in addition to the \$1,327 in overissued SNAP benefits, for the period of July, 2017, through December, 2017, I also ORDER and direct the Agency to recoup this overissuance, for a total of \$3,290 to be recouped by the Agency. See Exhibit P-2.

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)(2). See Initial Decision at 7.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the Initial Decision in this matter, and following and 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.

I direct that the Agency proceed to recoup the overissuance.

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

APR 16 2020

Officially approved final version.

Natasha Johnson
Assistant Commissioner

