



State of New Jersey

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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 **09359-25 P.T.**

AGENCY DKT. NO. **S771760009 (HUDSON COUNTY DIVISION OF WELFARE)**

Petitioner Agency charges Respondent with committing an intentional program violation ("IPV"), as defined by N.J.A.C. 10:87-11.3 and 7 C.F.R. 273.16(c), of the Supplemental Nutrition Assistance Program ("SNAP"). The Agency asserts that Respondent intentionally misrepresented his household composition while he received SNAP 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 certified mail, on April 24, 2025. See Exhibit P-9; see also N.J.A.C. 10:87-11.5(a)(3)(i) and 7 C.F.R. 273.16(e)(3)(i). Receipt was further confirmed by the Agency via telephone call on May 15, 2025. Ibid. 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 June 10, 2025, the Honorable Nanci G. Stokes, Administrative Law Judge ("ALJ") held a telephonic plenary hearing, took testimony, and admitted documents. Respondent appeared telephonically for the hearing and the ALJ indicated that Respondent remained on the phone line while a scheduling matter was handled involving another case, however, during the Agency's case presentation, Respondent disconnected the call. See Initial Decision at 2, 6. The fair hearing liaison attempted to reach Respondent by telephone, however such efforts were unsuccessful and Respondent did not call back into the fair hearing. Ibid. As such, the matter proceeded ex parte, which is permissible pursuant to regulation. See N.J.A.C. 1:10-14.1(d), N.J.A.C. 10:87-11.5(a)(4)(i), and 7 C.F.R. 273.16(e)(4). Respondent was given ten days following the hearing, to present good cause for his failure to appear. Ibid. He did not respond.

On June 23, 2025 the ALJ issued an Initial Decision, which found that the Agency had failed to meet 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 he was not entitled. See Initial Decision at 7; see also N.J.A.C. 10:87-11.3(a), -11.5(a)(6), 7 C.F.R. 273.16(c)(1), and 7 C.F.R. 273.16(e)(4).

The Agency shall be responsible for investigating any case of alleged IPV, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the proper procedures. See N.J.A.C. 10:87-11.1(a). Administrative disqualification procedures or referral for prosecution action shall be initiated by the Agency in cases in which it has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of IPV as defined at N.J.A.C. 10:87-11.3(a). In the instance of an IPV, the ALJ shall base the determination of an IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined above. See N.J.A.C. 10:87-11.5(a)(6).



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, and differs from an IPV, is one which results from "a misunderstanding or unintended error on the part of the household" receiving benefits, called an "Inadvertent Household Error" ("IHE"). See N.J.A.C. 10:87-11.20(e)(2). Repayment of overissuances may be sought for amounts up to six years prior to the time that the Agency becomes aware of the overpayment. See N.J.A.C. 10:87-11.20(f)(1)(i).

Here, Petitioner applied for SNAP benefits, on behalf of a household of two, during May 2022 and began receiving SNAP benefits during June 2022 for himself and his minor child. See Initial Decision at 4. The record reflects that the Agency commenced an investigation, based upon an anonymous email, on July 17, 2024. See Initial Decision at 3; see also Exhibits P-4, P-8. The email alleged that Respondent was receiving SNAP benefits on behalf of himself, as well as his minor child, but that his child had resided out of state, with his mother, since November 2022. See Initial Decision at 3; see also Exhibits P-4, P-6, P-7, P-8. The minor child's mother confirmed she has had physical custody since November, 2022 and that her son has been enrolled in school since December, 2022. Ibid. Prior to the hearing, Respondent was interviewed at the Agency where he informed the investigator that he had reported that his son was not living with him, however, he could not specify when he reported the change, only that he spoke to someone at the Agency window. See Initial Decision at 3. Respondent did not deny that his son had moved out-of-state. See Initial Decision at 4.

During the investigation, the Agency reviewed Respondent's Interim Reporting Form ("IRF") from December 1, 2023, which was signed by Respondent on January 5, 2024. See Initial Decision at 4; see also Exhibit P-5. On the IRF, Respondent responded that no one moved into or left his household, however, he also advised that he was paying monthly child support for his son, who did not reside in his home, on the IRF. Ibid. The ALJ found that Respondent noted that his son did not reside in his home and that no earlier in time IRF was produced, which the ALJ found of import as the IRF was completed a year after Respondent's son left his home. Ibid. Further, the ALJ found that the Agency IPV notices failed to include any mention of repayment of benefits being sought or a specific amount being sought. See Initial Decision at 5.

Based upon the foregoing, the ALJ concluded there is no proof that Petitioner misrepresented, concealed, or withheld facts in order to obtain SNAP benefits. See Initial Decision at 7. Specifically, the ALJ found that the Agency failed to prove that Respondent did not correctly report that his son was no longer residing in the household as the IRF presented indicated that Respondent was paying child support on his behalf. Ibid. Accordingly, based upon the record presented, and because the ALJ concluded that the Agency did not present clear and convincing evidence that Respondent had committed an IPV, the ALJ found that Respondent had not committed an IPV, however, the ALJ found that Respondent did not disclose the proper SNAP household composition, and affirmed the Agency's finding of an overissuance by ordering same be repaid. See Initial Decision at 7. Based on an independent review of the record, I agree with the ALJ's conclusions in this matter that the overpayment of SNAP benefits occurred due to an IHE, rather than an IPV. Thus, based upon the finding of an IHE, rather than an IPV, the ALJ found that no disqualification period, pursuant to N.J.A.C. 10:90-11.1(a) and 11.2(a)(1), was to be imposed. Ibid.

As Assistant Commissioner, 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. See 7 C.F.R. 273.16(e)(6).

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter, and MODIFY the Agency's determination as to the overissuance of SNAP benefits from an IPV to an IHE. Further, as I agree with the ALJ that no IPV was proven in this matter, no 12-month disqualification period, pursuant to N.J.A.C. 10:87-11.2(a)(1), shall be imposed. Therefore, I ORDER and direct that the Agency proceed to recoup the overissuance of any benefits that were issued from January 2023, through August 2024.

Officially approved final version. July 10, 2025

Natasha Johnson
Assistant Commissioner

