



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 **02707-25 D.C.**

AGENCY DKT. NO. **C252871020 (UNION COUNTY DIVISION OF SOC. SVCS.)**

Petitioner Agency charges Respondents, R.H. and D.C., (docketed separately under Office of Administrative Law ("OAL") Docket No. HPW 02708-25 (R.H.), and OAL Docket No. HPW 02707-25 (D.C.)), 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 R.H. intentionally misrepresented her household composition while she received SNAP benefits, thus causing Respondent to receive an overissuance of benefits to which she was not entitled. Respondents were properly noticed of the Administrative Disqualification Hearing, the charges against them, and the proposed disqualification penalty, via certified mail, on December 23, 2024. See Exhibit P-8; see also N.J.A.C. 10:87-11.5(a)(3)(i) and 7 C.F.R. 273.16(e)(3)(i). Because Respondents failed to execute and return the waiver of their right to a hearing, the matter was transmitted to the Office of Administrative Law for a hearing as a contested case. On February 21, 2025, a prehearing telephone conference was held, and the matter adjourned, to allow the Agency to produce video evidence. The Agency failed to provide the video evidence via the requested CD or removable drive to the ALJ. On March 19, 2025, the Honorable Andrea Perry Villani, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record was held open until March 26, 2025, to allow for the production of additional documents by the Agency, and the record closed. Additional records were submitted by the Agency late on March 28, 2025, at which time the record was reopened and then closed.

IPVs occur where the person intentionally "made a false or misleading statement, or misrepresented, concealed or withheld facts." See N.J.A.C. 10:87-11.3 and 7 C.F.R. 273.16(c).

On April 1, 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 Respondents had deliberately and intentionally withheld information from the Agency, which resulted in Respondents receiving an overissuance of SNAP benefits, to which they were not entitled. See Initial Decision at 7-8; 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). Specifically, the ALJ found that Petitioner R.H. has received SNAP benefits from July 2020 through December 2024. Initial Decision at 3. Petitioner's household consisted of her daughter, born 2013, and her son, born 2021, who was added to her SNAP household in November 2021. Ibid. R.H. resides in a home owned by the father of her son, D.C. Ibid. R.H. and D.C. have known each other since 2010, and D.C. and R.H. resided together, with her daughter, in New York, where she rented a room from him and paid monthly rent from 2013 to 2020. Ibid. In May 2020, D.C. purchased a home in New Jersey and offered R.H. a place to stay as she was utilizing the majority of her income for her daughter's child care. See Initial Decision at 4. D.C. required R.H. to pay the water bill, cable bill, and to contribute for her share of car insurance, however, R.H. did not pay rent. Ibid. R.H. and D.C. have never dated, presented themselves as a couple, or been romantically involved, however, they provided testimonial evidence that they engaged in intercourse



when intoxicated at a party which led to Petitioner becoming pregnant during October 2020. Ibid. In February 2021, D.C. moved to New York to reside with his girlfriend, K.B. Ibid. D.C. provided testimony that his employer is located in New York, he performs work in New York, that during the period of time from May 2020 to February 2021 when he lived in New Jersey he commuted to work in New York, and he uses K.B.'s New York address for day-to-day activities such as his banking and mail. Ibid. R.H. and D.C.'s son was born during July 2021 and added to her SNAP household in November 2021. See Initial Decision at 4-5.

In January 2023, R.H., while undergoing the SNAP recertification process, was instructed by the Agency to add D.C. to her SNAP household because he was the biological father of her child and because he owned the home where she was residing. See Initial Decision at 5. R.H. did not want to add D.C. to the case because he did not reside in the home, however, an Agency employee informed Petitioner that if she did not add him to her SNAP case, it would be closed. Ibid. On February 15, 2023, D.C., without his knowledge, was added to R.H.'s SNAP case. Ibid. Approximately six months later, D.C. requested to be removed from the SNAP case when he learned that R.H., and his son, were receiving SNAP benefits. Ibid. On October 31, 2024, an Agency investigator went to Petitioner's home and D.C. answered the door, at which time he informed the investigator that R.H. was hospitalized away from the home and he was assisting with child care. Ibid.; see also Exhibit P-3. D.C. does visit his son, occasionally, in New Jersey, typically on the weekends, however, when he visits the home, he stays in a separate space from R.H. Ibid. D.C. maintains that he is dating and living with K.B. in New York, at K.B.'s residence. See Initial Decision at 6.

Accordingly, based upon the record presented, the ALJ concluded that while R.H.'s living situation may be considered unusual, there is no proof that she misrepresented, concealed, or withheld facts in order to obtain SNAP benefits. See Initial Decision at 7. The ALJ found the Agency's reliance on N.J.A.C. 10:87-2.2(c) ("[i]n no event shall nonhousehold member status or separate household status be granted to: 1. Parents and their biological, adopted or stepchildren (excluding foster children) under the age of 22 who reside together, regardless of the marital status or having a child of their own...") was misplaced, as R.H. and D.C. do not reside together as parents, specifically noting that D.C. was living with K.B. out of state when their son was born. Ibid. While D.C. does own the home, and may occasionally visit, this does not establish that R.H. and D.C. reside together. Ibid.; see also N.J.A.C. 10:87-3.3(a). Further, the ALJ found that the Agency provided no evidence that R.H. and D.C. ever met the definition of a household for SNAP purposes, as even when they did reside together there was no proof that they purchased food or prepared meals together. See Initial Decision at 8; see also N.J.A.C. 10:87-2.2(a)(2). Accordingly, based upon the record presented, and because the ALJ concluded that the Agency did not present clear and convincing evidence that Respondents had committed an IPV, the ALJ found that Respondents had not committed an IPV, and dismissed the Agency's action seeking to recover the overissuance of SNAP benefits and disqualifying Respondents from receipt of SNAP benefits. See Initial Decision at 8-9; see also N.J.A.C. 10:87-11.5(a)(6) and 7 C.F.R. 273.16(c)(1). Based on an independent review of the record, I agree with the ALJ's conclusions in this matter.

Additionally, the ALJ also addressed an Agency's allegation that Respondent R.H. concealed income from her TikTok account. See Initial Decision at 6. The ALJ concluded that the amount earned, of \$1 to \$3 per month, was *de minimis* and would not have impacted her SNAP benefits. See Initial Decision at 8. I also agree.

Exceptions to the Initial Decision were filed by the Agency on April 15, 2025.

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).

By way of comment, I find the Agency's Exceptions to be without merit. I initially note that the Agency's counsel raises facts in her Exceptions which were not presented to the ALJ at the March 19, 2025, plenary hearing, which is not permitted. See N.J.A.C. 1:1-18.4(c) ("Evidence not presented at the hearing shall not be submitted as part of an exception, nor shall it be incorporated or referred to within exceptions."). I specifically note that the Agency's counsel references facts contained in recorded interviews, which the ALJ had repeatedly requested to be submitted to the ALJ by the Agency, yet were not sent to the ALJ for her consideration in this matter. Nonetheless, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

By way of further comment, I note that a WFNJ-15/SNAP-15 was entered into the record as Exhibit P-7 for both R.H. and D.C. That document, dated January 21, 2025, references a Final Decision by the ALJ in this matter on February 21, 2025, finding that the respective Respondents had been found guilty of committing an IPV and therefore a 12-month disqualification period was to be imposed. Clearly, based on the Initial Decision above, no such finding was made by the ALJ, and moreover, the Final Decision is made not by the ALJ, but rather by DFD. Further, it is inappropriate to presume that a particular finding would be made in a case before it is even heard. As such, I find that these forms are void and are therefore stricken from the record of this case.



Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter, and REVERSE the Agency's determinations.

Officially approved final version. April 25, 2025

Natasha Johnson
Assistant Commissioner

