



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716  
TRENTON, NJ 08625-0716

CAROLE JOHNSON  
*Commissioner*

SHEILA Y. OLIVER  
*Lt. Governor*

NATASHA JOHNSON  
*Director*

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 02908-18 S.S.

AGENCY DKT. NO. S540676012 (MIDDLESEX COUNTY BD OF SOC SCVS)

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 report her employment income while receiving SNAP benefits, thus causing Respondent to receive an overissuance of 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. See Exhibit R-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 March 9, 2018, the Honorable David M. Fritch, 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 opened for 10 days for Respondent to show good cause for her failure to appear, and then the record closed on March 19, 2018.

On April 9, 2018, the ALJ issued an Initial Decision, which found that the Agency had not met its burden in establishing, by clear and convincing evidence, that Respondent committed an IPV by failing to report her employment earnings. See Initial Decision at 6-7; see also N.J.A.C. 10:87-5.2(a), -11.3(a)(1), -11.5(a)(6). Here, the ALJ found that on October 26, 2010, Respondent filed an Interim Report Form ("IRF") and did not indicate a change in income from her employment, nor did she report her loss of unemployment insurance benefits ("UIB"), effective September 2010. See Initial Decision at 5; see also Exhibits R-14, R-15. Thereafter, on February 21, 2011, Respondent filed a Change Report Record and provided documentation, specifically, paystubs reflecting her new employment income. See Initial Decision at 6; see also Exhibits R-10, and R-18. The Agency verified that Respondent began working on September 1, 2010. See Initial Decision at 3; see also Exhibit R-11. Respondent's unreported employment income for October 2010, and November 2010, was \$1,043, and \$1,390, respectively. See Initial Decision at 3; see also Exhibit R-4 at 2. The ALJ found that Respondent's unreported income for October and November 2010, was far less than the monthly gross income of \$357 and the monthly unearned income of \$1,707 that was actually reported in Respondent's IRF. Id. at 3; see also Exhibits R-15, and R-20 at 2. See Initial Decision at 3; see also Exhibit R-22 at 39, 41. The record reflects



that had Respondent correctly reported her income, she would have been entitled to \$814 in SNAP benefits for those months. Ibid. As a result, Respondent was underpaid a total of \$150 for the months of October and November 2010, which represents the difference between what Respondent was entitled to in SNAP benefits (\$814), and the amount of SNAP benefits received by Respondent for October 2010, and November 2010 (\$664). See Exhibit R-22 at 53.

Between December 2010 and January 2011, Respondent received a total of \$664 in SNAP benefits. See Initial Decision at 4; see also Exhibit R-22 at 43, 45. The ALJ found that had Respondent correctly reported her income, she would have been entitled to a total of \$1,080 for those months. Id. at 4; see also Exhibit R-22 at 53. The ALJ determined that Respondent was underpaid a total of \$416 for the period of December 2010 and January 2011. Ibid. Accordingly, for the period of October 2010, through January 2011, Respondent was underpaid \$566 in SNAP benefits. See Exhibit R-22 at 53.

For the months of February and March 2011, Respondent received \$664 in SNAP benefits. See Initial Decision at 4; see also Exhibit R-22 at 47, 49. The ALJ found that had Respondent correctly reported her income, she would have been entitled to receive \$155 in SNAP benefits, for February 2011, and \$0 in March 2011. Ibid. Accordingly, for the period of February 2011, through March 2011, the ALJ found that Respondent was overpaid \$509 in SNAP benefits. See Initial Decision at 4. Therefore, based upon the record, from the period beginning October 2010, through March 2011, had Respondent correctly reported her income, it would have resulted in Respondent being underpaid \$57 in SNAP benefits. See Exhibit R-22 at 53.

The ALJ found that while the record reflects that Respondent failed to report a change in her income which did result in an overissuance of SNAP benefits, this failure has not been shown to be an intentional concealment or withholding of facts for the purpose of obtaining benefits for which respondent was not otherwise entitled. See Initial Decision at 6; see also N.J.A.C. 10:87-11.3(a)(1). The ALJ further found that Respondent's failure in reporting her income was not motivated by an intent to obtain benefits for which she was not otherwise entitled because her omissions resulted in her receiving lower SNAP benefits for the first few months following that reporting. See Initial Decision at 6; see also Exhibits R-15, and R-22 at 39, 41, 43, 45. Therefore, the ALJ concluded that, based on the record presented, the Agency had failed to meet its burden, by clear and convincing evidence, that Respondent committed an IPV, and dismissed the Agency's petition. See Initial Decision at 7; see also Exhibit R-1 at 6. I agree. Further, I find that there was no overissuance as Respondent was underpaid \$57 in SNAP benefits.

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.

By way of comment, based upon an independent review of the record, the SNAP benefits calculations made by the ALJ are modified as discussed above.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter.

Officially approved final version.

MAY 22 2018

Natasha Johnson  
Director

