



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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

REMAND DECISION

OAL DKT. NO. HPW 3075-14 S.H.

AGENCY DKT. NO. S412401 (HUNTERDON COUNTY BD. OF SOC SVCS.)

The Petitioner Agency charges Respondent with an Intentional Program Violation ("IPV") in the Supplemental Nutrition Assistance Program ("SNAP") f/k/a Food Stamp Program benefits, because Respondent collected SNAP while failing to report her receipt of income. Because of this failure to report, the Agency found that Respondent received an overissuance of SNAP benefits in the amount of \$1,148 for the months of January through July 2013.

Thereafter, the matter was transmitted to the Office of Administrative Law ("OAL") for an administrative disqualification hearing. The Agency sent Respondent a notification of the charges and the hearing date, which was scheduled for March 25, 2014. Respondent acknowledged receipt of the notice. See Certified Mail-Return Receipt. On March 24, 2014, Respondent sent a written letter to the Honorable Elia A. Pelios, Administrative Law Judge ("ALJ") requesting an adjournment of the hearing. The request did not indicate any change in address, nor did it contain any address at all for Respondent. Although Respondent's request for an adjournment was made only a day before the scheduled hearing, ALJ Pelios granted Petitioner's request for a hearing adjournment. See N.J.A.C. 1:10-9.1(a)1 (requiring request for adjournment be made at least 10 days before the hearing date in IPV matters). On May 6, 2014, the OAL sent the parties a notice containing the rescheduled hearing date, July 1, 2014. The notice to Respondent was sent to the address on file with the OAL; it was not returned as undeliverable to the OAL. On July 1, 2014, ALJ Pelios held a hearing, took testimony and admitted documents. There was no appearance by or

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on behalf of Respondent. At the hearing, the ALJ concluded that Respondent received adequate notice of the hearing, and the hearing was conducted in Respondent's absence. After the hearing was concluded, Respondent was given time to explain her failure to appear. On July 15, 2014, the ALJ issued an Initial Decision, which affirmed the Agency's IPV charges and found that Respondent was overissued SNAP benefits in the amount of \$1,148.

On August 18, 2014, Respondent submitted exceptions to the Initial Decision. Respondent contends she missed the hearing because the notice was sent to her old address. It does not appear that Respondent sent a copy of her exceptions to either the OAL or the Agency.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision, and I remand this matter to the OAL for a new hearing.

Here, there is no dispute that the Agency provided Respondent with proper initial notice of the March 25, 2014, disqualification hearing pursuant to N.J.A.C. 10:87-11.5(a)(3) and Respondent is fully aware of the IPV proceedings. However, Respondent subsequently requested an adjournment of the March 25th hearing date and failed to advise the OAL of the change in her address. As a result, when OAL rescheduled her hearing, OAL sent the hearing notice containing the new hearing date, July 1, 2014, to Respondent's previous address. Consequently, in the interest of fairness, I am remanding this matter to the OAL to reschedule a hearing in this matter so that Respondent has an opportunity to appear. See also N.J.A.C. 1:10-9.2(b) (requiring OAL Clerk to send written notice of hearing at least 30 days prior to the hearing in IPV matters). A copy of Respondent's exceptions with her new address will be forwarded to the OAL with this Decision.

But, I advise Respondent that it is her responsibility to notify the OAL of any change in address while her matter is pending. Also, it is questionable that in the three months between Respondent's request for the adjournment on March 24, 2014, and the July 1, 2014, new hearing date that Respondent made no contact with either the OAL or Agency to inquire about the status of the new hearing date.

Lastly, Respondent is cautioned that there may not be any other adjournments in this matter. See N.J.A.C. 1:10-9.1(a),(b) (allowing only one adjournment in SNAP matters and hearing to be rescheduled in no more than 30 days). And, if Respondent fails to appear at the new hearing date, then the hearing may proceed in Respondent's absence.

Accordingly, this matter is REMANDED to the OAL for a new hearing.

AUG 29 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director