

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41282

WAYDE T. NELSON,	)	2015 Unpublished Opinion No. 424
	)	
Petitioner-Appellant,	)	Filed: March 19, 2015
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
IDAHO DEPARTMENT OF HEALTH & WELFARE,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
	)	BE CITED AS AUTHORITY
Respondent.	)	
	)	

---

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Kathryn A. Sticklen, District Judge.

Decision of the district court affirming final agency order, affirmed.

Wayde T. Nelson, White Bird, pro se appellant.

Hon. Lawrence G. Wasden, Attorney General; Mary J. Beig, Deputy Attorney General, Boise, for respondent.

KIDWELL, Judge Pro Tem

Wayde T. Nelson appeals from the decision of the district court affirming a final agency order determining that Nelson committed an intentional program violation of the food stamp program. For the reasons that follow, we affirm.

I.

FACTS AND PROCEDURE

In December 2008, Nelson applied for food stamps on behalf of his household, which consisted of himself and his minor daughter. Following a required interview with a self-reliance specialist at the Idaho Department of Health and Welfare (the Department), Nelson’s household was approved for food stamps in January 2009, including food stamp monies backdated to the December application. For reasons that are unsettled, Nelson submitted a second application for food stamps that the Department received in February 2009, although it is not apparent that the

Department ever acted on this application. In addition, due to a required recertification in order to remain eligible for food stamps, Nelson submitted a third application (a recertification application) in April 2009 and conducted an interview with a different self-reliance specialist. Following the recertification interview, Nelson was again approved for food stamps.

At some time around the recertification interview, the Department began to investigate Nelson concerning his participation in a required food stamp work program. As that investigation was ongoing, questions also arose regarding Nelson's resources disclosed in his applications, specifically the bank accounts disclosed by Nelson. Relevant to this appeal, the Department eventually determined that Nelson committed an intentional program violation and determined that this intentional program violation caused the Department to overissue food stamps for several months.

Following demand letters and meetings between Nelson, his mother, the Department's fraud investigator, and later, Nelson's attorney, the matter proceeded to a hearing at which an "administrative disqualification hearing" (for the intentional program violation) and a "fair hearing" (for the overissuance of food stamps caused by the intentional program violation) were conducted. Before the hearing officer, the Department presented testimony from the self-reliance specialist who interviewed Nelson concerning the December application, the self-reliance specialist who interviewed Nelson concerning the April recertification application, the fraud investigator, an employee who determined the amount of food stamp monies the Department had overissued, and an employee who was familiar with Nelson's food stamp (EBT) card. Throughout the testimony, the Department presented multiple ways in which it asserted Nelson committed an intentional program violation. In his defense, Nelson presented testimony from himself and his mother.

The hearing officer then issued a preliminary order with findings of fact and conclusions of law. In that order, the hearing officer found that Nelson committed an intentional program violation by failing to report income for at least one month in the period of December 2008 through May 2009. The hearing officer also found that Nelson owed the Department for an overissuance of food stamps, due to his household's income exceeding the food stamp program limits in February 2009, but not for the other months the Department claimed they had overissued food stamps. Nelson appealed to the director of the Department.

The director's designee, the administrator of the division of welfare (the administrator), issued a final order affirming the decision of the hearing officer that Nelson committed an intentional program violation by failing to report income. The administrator reversed a finding of the hearing officer concerning whether Nelson was required to report a joint checking account he had with his mother. The administrator determined that the joint account was a countable resource (and should have been reported). With this determination, the administrator also found that Nelson committed an intentional program violation by failing to fully and accurately report his resources (i.e., bank accounts) during the timeframe asserted by the Department. As to the overissuance claim raised by the Department, the administrator affirmed the finding that Nelson's intentional program violation caused the Department to overissue food stamps in February 2009.

Nelson sought judicial review in the Ada County District Court. There, he argued that (1) the administrator incorrectly excluded errors committed by the Department; (2) the Department had not sustained its burden of demonstrating his intent to commit an intentional program violation; (3) the administrator misconstrued exhibits; (4) the administrator inaccurately characterized the application and interview process; (5) and the administrator incorrectly determined the joint account to be Nelson's account. The district court affirmed the Department's final order, and Nelson seeks judicial review from this Court.

## **II.**

### **STANDARD OF REVIEW**

The Idaho Department of Health and Welfare is an agency under the Idaho Administrative Procedures Act (IDAPA). Idaho Code § 67-5201(2). A final order issued by an agency arising out of a contested case proceeding constitutes agency action. I.C. § 67-5201(3). Judicial review of agency action is governed by the IDAPA. I.C. § 67-5270(1). In an appeal from the decision of the district court, which exercised its judicial review authority under the IDAPA, this Court reviews the agency record independently of the district court's decision. *Stafford v. Idaho Dep't of Health & Welfare*, 145 Idaho 530, 533, 181 P.3d 456, 459 (2008). However, as a matter of procedure, we affirm or reverse the district court's decision. *Williams v. Idaho State Bd. of Real Estate Appraisers*, 157 Idaho 496, 502, 337 P.3d 655, 661 (2014).

A party challenging the agency action must show that the party's substantial rights have been prejudiced, I.C. § 67-5279(4), and demonstrate that the agency's findings, inferences,

conclusions, or decisions: (a) violate statutory or constitutional provisions; (b) exceed the agency's statutory authority; (c) are made upon unlawful procedure; (d) are not supported by substantial evidence in the record; *or* (e) are arbitrary, capricious, or an abuse of discretion, I.C. § 67-5279(3). *See Kaseburg v. State, Bd. of Land Com'rs*, 154 Idaho 570, 577, 300 P.3d 1058, 1065 (2013). If the agency action is not affirmed on appeal, it will be set aside and remanded for further proceedings as necessary. I.C. § 67-5279(3).

An agency's findings of fact will not be set aside on appeal unless they are not supported by substantial evidence in the record, even if the evidence is conflicting.<sup>1</sup> *Williams*, 157 Idaho at 502, 337 P.3d at 661. This Court reviews discretionary issues to determine whether the agency perceived the issue as discretionary, acted within the outer limits of its discretion and consistent with the applicable legal standards, and reached its decision through an exercise of reason. *Id.* And over questions of law, this Court exercises free review. *Id.*

### III.

#### ANALYSIS

On appeal, Nelson categorizes his arguments into five issues concerning why the district court erred by affirming the administrator's final order. First and foremost, Nelson contends that the administrator's decision finding that Nelson committed an intentional program violation is not supported by substantial evidence. Next, he argues that the administrator mischaracterized the application process and the "actions and intent of the participants." Third, Nelson argues that the administrator erroneously interpreted Nelson's exhibits and incorrectly ascertained his mother's intent. In addition, Nelson asserts that the administrator erred by reversing the hearing

---

<sup>1</sup> According to the Idaho Supreme Court:

Substantial and competent evidence is less than a preponderance of evidence, but more than a mere scintilla. Substantial and competent evidence need not be uncontradicted, nor does it need to necessarily lead to a certain conclusion; it need only be of such sufficient quantity and probative value that reasonable minds could reach the same conclusion as the fact finder.

*Cowan v. Bd. of Com'rs of Fremont County*, 143 Idaho 501, 517, 148 P.3d 1247, 1263 (2006) (citations omitted).

officer's decision concerning the joint checking account. Finally, Nelson avers that the administrator improperly excluded errors committed by the Department.

Before addressing the first issue, we note that although we refer to the record and findings of the hearing officer, the preliminary order of the hearing officer is not the agency action that is subject to judicial review. Rather, it is the administrator's *final* order that is subject to judicial review, as it constitutes the agency action. *See* I.C. § 67-5270(3) ("A party aggrieved by a final order in a contested case decided by an agency . . . is entitled to judicial review."); *see also* I.C. § 67-5245 (discussing preliminary orders and final orders); IDAHO ADMIN. CODE r. 16.05.03.150-.154 (discussing review of preliminary orders by the director of the Department or her designee, who issues final order).

In addition, we note that although Nelson has not expressly argued that a substantial right has been prejudiced, the final agency order directed that Nelson be ineligible for food stamps for twelve months. IDAHO ADMIN. CODE r. 16.03.04.677.01<sup>2</sup> (we refer to sections within IDAHO ADMIN. CODE r. 16.03.04 as Food Stamp Rules; thus, this citation would be Food Stamp Rule 677.01). The order also directed that Nelson pay the Department \$323. These facts demonstrate that a substantial right has been impacted by the agency's final order. Thus, we now turn and examine whether the Department erred in any of the ways asserted by Nelson.

#### **A. The Intentional Program Violation and Overissuance**

The primary issue raised by Nelson in this appeal is that the administrator's determination that Nelson committed an intentional program violation is not supported by substantial evidence. Under the food stamp program, an intentional program violation occurs when "the client . . . intentionally, knowingly, and willfully commit[s] a program violation."<sup>3</sup> Food Stamp Rule 698. An intentional program violation includes the following actions:

01. False Statement. A person makes a false statement to the Department, either orally or in writing, to get Food Stamps.

---

<sup>2</sup> Here, we rely on the version of the rules applicable at the time of the alleged violation. To the extent that the version of the rules applicable in February 2009 is different than today's rules, we cite the old version of the rules.

<sup>3</sup> A client is "[a] person entitled to or receiving Food Stamps." IDAHO ADMIN. CODE r. 16.03.04.010.16 (2008) (we refer to sections within IDAHO ADMIN. CODE r. 16.03.04 as Food Stamp Rules; thus, the citation here would be Food Stamp Rule 010.16).

02. Misleading Statement. A person makes a misleading statement to the Department, either orally or in writing, to get Food Stamps.

03. Misrepresenting. A person misrepresents facts to the Department, either orally or in writing, to get Food Stamps.

04. Concealing. A person conceals or withholds facts to get Food Stamps.

05. Violation of Regulations. A person commits any act violating the Food Stamp Act, Federal regulations, or State Food Stamp regulations. The violation may relate to use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

06. Trafficking in Food Stamps. Trafficking in Food Stamps means the buying or selling of Food Stamps or other benefit instruments for cash, or consideration other than eligible food. Trafficking includes the exchange of firearms, ammunition, explosives, or controlled substances, as defined in Section 802 of Title 21, USC, for benefit instruments.

Food Stamp Rule 698. The Department must establish that the client committed or intended to commit an intentional program violation by clear and convincing evidence. IDAHO ADMIN. CODE r. 16.05.03.254.

In addition, if a client's intentional program violation causes the Department to issue more food stamps to the household than the household is eligible to receive, the Department may institute a claim against the household to recover the value of the food stamps overissued. Food Stamp Rule 675.01. A claim is an action by the Department to recover the value of food stamps paid. Food Stamp Rule 675. The amount of the overissuance must be established by a preponderance of the evidence.<sup>4</sup> IDAHO ADMIN. CODE r. 16.05.03.134.

On appeal, Nelson contends that the chronology of his actions "is significant because the hearing officer may have been confused in his review of the testimony, particularly focusing on Mr. Nelson's state of mind." We interpret this argument to assert that there is not substantial evidence supporting the administrator's determination that Nelson committed an intentional program violation. Nelson also argues that there is overwhelming evidence to establish an agency error claim.<sup>5</sup> The Department on appeal argues that there is substantial evidence to

---

<sup>4</sup> A "claim" is typically handled through a "fair hearing." *See* 7 C.F.R. § 273.16(e)(1) (2014). However, states are permitted to combine a fair hearing and administrative disqualification hearing. *Id.* This is the case here, where the hearing officer conducted both the administrative disqualification hearing (the determination of an intentional program violation) and fair hearing.

<sup>5</sup> Nelson's argument concerning an agency error claim is likely based on a mistaken understanding of that claim. An agency error claim is used when the Department's action or

support the administrator's determination of an intentional program violation and intentional program violation claim. Specifically, the Department asserts several different means, based upon the testimony below, upon which Nelson committed an intentional program violation.

In our review of the issue, we work backwards from the administrator's findings. We do this because if we determine that there is substantial evidence of an intentional program violation in February 2009 that caused the Department to overissue food stamps, we may not only affirm this determination but also affirm the finding that Nelson committed an intentional program violation during at least one month from December 2008 to May 2009. We address the intentional program violation in two components. We first examine whether there was substantial evidence for the administrator to find that Nelson misrepresented facts to the Department, either orally or in writing, or that Nelson concealed or withheld facts to get food stamps. Next, we analyze whether there was substantial evidence for the administrator to determine that Nelson intentionally, knowingly, and willfully did such an act. Then we turn to the overissuance claim.

#### **1. Misrepresentation or concealment of facts**

Here, there is substantial evidence supporting the administrator's determination that Nelson's household exceeded its gross income limit in February 2009, and that Nelson had failed to report this change in income, as required. In that month specifically, Nelson's daughter received social security income, *see* Food Stamp Rule 402.02 (2008), and Nelson received deposits into his personal checking account, *see* Food Stamp Rule 402.08. Combined, Nelson's household exceeded the \$1,517 gross income limit by more than \$500.<sup>6</sup> In addition, the gross

---

failure to act *caused* the overissuance of food stamps. Food Stamp Rule 675.03. The only assertion here is that Nelson's actions caused the overissuance. Moreover, the agency error claim permits the Department to *recover* food stamp monies from the client; not the other way around.

<sup>6</sup> As the administrator also found, there was evidence that Nelson had access to a joint checking account held between him and his mother. Testimony at the hearing established that Nelson had a debit card that could access the joint account, and that the debit card had a separate card number than the card number assigned to his mother. In the bank statements obtained and submitted by the Department, Nelson's debit card made two ATM withdrawals from the joint account during the month of February 2009. Although these withdrawals may be countable as unearned income under the Food Stamp Rules, we need not resolve this issue and do not express an opinion on it.

income received by Nelson's household in February 2009 triggered a requirement that Nelson report his household's change in income, which Nelson did not do. See Food Stamp Rule 601.01.a (2008) (requiring the household to report unearned income changes of more than \$50); see also Food Stamp Rule 611 (2008) ("Households must report changes to the Department by the tenth day of the month following the month in which the change occurred."); Food Stamp Rule 611.06 (2008) (warning participants that "if Food Stamps are overissued because a household fails to report required changes, a Claim Determination must be prepared. A person can be disqualified for failure to report a change if he commits an Intentional Program Violation.").

Although Nelson claimed at the hearing that a portion of the money received was a loan, the administrator determined that the only documentary evidence of a loan was for financial support provided by Nelson's mother *prior to* January 30, 2009, and that all assistance after that date was a contribution. See Food Stamp Rule 405.10 (excluding loans from income). This finding is supported by substantial evidence. A "loan repayment agreement" prepared by Nelson and his mother and signed by him and his mother on January 30, 2009, states: "I, WAYDE NELSON, *borrowed* money for living expenses from my mother []. I *owe* her approximately \$25,000.00. I agree to pay back the money *borrowed* with interest at such time as I am able to find work." (Emphasis added.) The plain language of the document demonstrates that any agreement was for money that was already *borrowed* as of January 30, 2009.<sup>7</sup>

Both the administrator and hearing officer also expressed concern with whether there was truly a loan at all. There is also substantial evidence to support the administrator's determination, to the extent there is one, that there was not a loan. In the December 2008 application, Nelson included a contribution statement from his mother which "indicate[d] the type of help [she was] . . . providing to [Nelson and his daughter]." There was no mention of a loan in this documentation. Moreover, in a letter from Nelson's mother, she explained that she "ha[d] been assisting [her] son and grandchild with living expenses." She also stated that she "ha[d her] own personal hardship and [would] not be able to continue helping them." It was not until the December interview that Nelson indicated that his mother was loaning him money. Yet,

---

<sup>7</sup> Both the administrator and hearing officer expressed concern with whether the loan repayment agreement was a legally enforceable agreement. We do not express an opinion on this issue.



in his testimony before the hearing officer, Nelson explained that he had not had a job since 1998 and acknowledged that he had never paid his mother any money back.

To the extent that Nelson and his mother testified that money Nelson received in February was a loan from his mother, both the hearing officer and the administrator disbelieved the claim that the money deposited in February 2009 was a loan. Both the hearing officer and administrator had the discretion to weigh the credibility of each party. *Cf. Fonseca v. Corral Agriculture, Inc.*, 156 Idaho 142, 150, 321 P.3d 692, 700 (2014) (“When making the determination of whether an accident occurred, this Court has consistently explained that we do not determine the weight and credibility of testimony or resolve conflicting interpretations of testimony, as this is squarely within the province of the Commission”) (internal quotation marks omitted), *abrogated on other grounds, Sims v. Jacobson*, \_\_\_ Idaho \_\_\_, \_\_\_, 342 P.3d 907, \_\_\_ (2015); *Corgatelli v. Steel West, Inc.*, 157 Idaho 287, 290, 335 P.3d 1150, 1153 (2014) (explaining that in an appeal from an Industrial Commission decision, conclusions on the credibility of witnesses and weight of evidence made by the agency will not be disturbed unless they are clearly erroneous).

In short, there is substantial evidence to support the determination by clear and convincing evidence that Nelson’s household’s income exceeded the gross income limit for a household of its size in February 2009. In addition, there is substantial evidence supporting the finding by clear and convincing evidence that Nelson did not report this overage to the Department by the tenth day of March, as he was required to do.

## **2. Intent**

There is also substantial evidence supporting the administrator’s determination that Nelson intentionally, knowingly, and willfully misrepresented or concealed facts relating to his household’s income in February 2009. In this case, the self-reliance specialist who interviewed Nelson in December testified that she discussed the reporting requirements with Nelson, specifically discussing “[i]f their income goes over \$1,517.00 in one month.” Following the interview, Nelson faxed a letter to the Department addressing the interview and mentioning in the letter, “The gross allowable limit if I’m working is \$1,517.00 if I do go over the allowable amount then I need to report this by the tenth of the month.” Two letters from the Department also advised Nelson of his income limit and his duty to report changes by the tenth day of the month after the change.

There was also circumstantial evidence of Nelson being aware of his February 2009 income. First, the money was deposited into Nelson's personal accounts. Second, to the extent that the money came from Nelson's mother, Nelson sought to pass off the income he was receiving as a loan. As discussed above, there is substantial evidence to find that the money deposited into Nelson's accounts in February was not loaned to him.

In total, these facts demonstrate that Nelson was informed of what his household's gross income limit was; was informed that he needed to notify the Department if his household's income exceeded \$1,517; and was informed that he needed to report such change by the tenth day of the month following the change. Coupled with the knowledge that Nelson's household's gross income had exceeded the limit in February 2009 and that Nelson had not reported this change by March 10, 2009, these facts provide substantial evidence to support the determination by clear and convincing evidence that Nelson knowingly, intentionally, and willfully withheld information about his household's over-the-limit income in February 2009 in order to obtain food stamps. Accordingly, there is substantial evidence supporting the administrator's determination that an intentional program violation occurred with respect to Nelson's household income in February 2009.

### **3. Overissuance claim**

Finally, there is substantial evidence supporting the administrator's determination that Nelson's intentional program violation in February 2009 caused the Department to overissue food stamps in the amount of \$323. The Department established that Nelson's food stamp account was credited with \$323 in benefits in both February 2009 and March 2009. Testimony and the accompanying rules demonstrate that Nelson would not have been eligible for food stamps if his household income exceeded \$1,517 in a month. As discussed above, there is substantial evidence supporting the finding that Nelson's household income did exceed \$1,517 in February 2009, and that this amounted to an intentional program violation. Thus, the Department overissued food stamps for one month, due to Nelson's intentional program violation relating to his income in February 2009. The administrator's determination of the amount of the overissuance is substantiated by a preponderance of the evidence.<sup>8</sup>

---

<sup>8</sup> At oral argument, Nelson and counsel for the Department informed the Court that Nelson had already been suspended from the food stamp program for one year during the pendency of this case and that the Department had recouped the \$323.

## **B. Intent and Characterization of the Application Process**

Nelson asserts that the administrator mischaracterized the application process and the “actions and intent of the participants.” Nelson clarifies this issue statement in his briefing and he appears to disagree with the weight given to the testimony provided at the hearings:

A fair interpretation of the initial Application for Assistance, interview and benefit issuance process demonstrates Wayde Nelson’s good faith approach toward working within the system to comply with requirements allowing his obtaining and continuing to qualify for access to Food Stamp benefits for his household of himself and his minor daughter.

However, this Court may not reweigh the evidence. *See Peck v. State, Dep’t of Transp.*, 153 Idaho 37, 42, 278 P.3d 439, 444 (Ct. App. 2012) (explaining that “this Court does not substitute its judgment for that of the agency as to the weight of the evidence presented.”); *cf. Corgatelli*, 157 Idaho at 290, 335 P.3d at 1153 (explaining that in an appeal from an Industrial Commission decision, conclusions on the credibility of witnesses and weight of evidence made by the agency will not be disturbed unless they are clearly erroneous). Rather, this Court’s standard of review relevant to this issue is limited to whether there is substantial evidence to support the administrator’s findings. As we discussed above, the findings of the administrator concerning the intentional program violation and overissuance are supported by substantial evidence. Because these findings are supported by substantial evidence, they are not clearly erroneous.

## **C. Exhibits and Nelson’s Mother’s Intent**

Nelson argues that the administrator erroneously interpreted Nelson’s exhibits and incorrectly ascertained his mother’s intent. Specifically, Nelson avers that his mother’s “intent was ascertained by fact-finders contrary to her testimony and was relied on to impose an intentional program violation penalty on her son.” As explained in the last issue, this Court may not reweigh the evidence; rather, we examine whether the factual findings of the administrator are supported by substantial evidence. As we discussed above, the findings of the administrator concerning the intentional program violation and overissuance are supported by substantial evidence--and these findings were made after making credibility determinations that the administrator and hearing officer had the discretion to decide. Because these findings are supported by substantial evidence, they are not clearly erroneous.

#### **D. The Joint Checking Account**

Nelson asserts that the administrator erred by reversing the hearing officer's decision concerning the joint checking account. The hearing officer determined that the joint checking account was not a countable resource for Nelson. The administrator reversed, holding that the joint checking account was a countable resource. Although the administrator provided an alternative basis (or means) upon which Nelson committed an intentional program violation--concerning Nelson's reporting his resources--we already held that there is substantial evidence supporting the determinations that Nelson committed an intentional program violation and that Nelson's intentional program violation in February 2009 caused the Department to overissue food stamps based on Nelson's income. Stated differently, we already upheld the ultimate findings of the administrator on one basis asserted by the agency, and we need not examine the alternative basis offered by the administrator. Accordingly, we need not decide whether the joint account is a countable resource.

#### **E. Errors by the Department**

Nelson avers that the administrator improperly excluded errors committed by the Department. According to Nelson, these errors impacted his defense:

By blithely brushing off the substantial and pervasive handling of errors committed by the Department in processing Mr. Nelson's Food Stamp case, and in failing to communicate with Mr. Nelson during the process, the hearing officer eliminated from his own review, state of mind considerations significant to the assessment of Mr. Nelson's defense to the Department's [intentional program violation] assertions.

Nelson also argues that the administrator overlooked Nelson's disability report of childhood onset seizure disorder.

The errors brought out by Nelson before the hearing officer arose with the initial issuance of Nelson's EBT card. Nelson's EBT card was, for some reason, not issued until March 2009. This was after food stamp monies had already been deposited into the account and was two months after Nelson had been informed that he was approved for food stamps. In addition, the Department mistakenly linked two individuals' EBT cards to Nelson's food stamp account around the time Nelson was issued an EBT card. These individuals were able to make \$348.99 in purchases from Nelson's account using their EBT cards before the Department ended the other individuals' access to the account. Nelson, himself, later discovered these transactions.

At the hearing before the hearing officer, the Department and Nelson stipulated that the total amount of overpayment the Department would seek would be reduced by \$348.99.<sup>9</sup> The administrator, on appeal, remarked about the errors, but explained that none of the Department's actions or omissions "excused Nelson from his obligation to provide true and complete information to [the Department] and to report certain changes."

The hearing officer appropriately characterized these errors as within the realm of customer service satisfaction. The errors complained of by Nelson are not relevant to the issue of the hearing, concerning whether Nelson misrepresented or withheld facts from the Department in order to obtain food stamps. Although Nelson did not have EBT card access to his food stamp account at the time he committed the intentional program violation in February, his food stamp account was still collecting food stamp monies. Moreover, the Food Stamp Rules required Nelson to notify the Department of changes once he was approved for food stamps. Food Stamp Rule 611. It is inconsequential that Nelson did not have his EBT card yet; rather, Nelson's duty to report changes and provide truthful information extended from the application to the interview and even after the interview. *See id.* Thus, the administrator appropriately found these errors irrelevant to the intentional program violation determination.

As to Nelson's claim of early childhood onset seizure disorder, Nelson presented evidence at the hearing that he had been diagnosed with this disorder. As the administrator discussed in his final order, most of the testimony was either offered as background or in reference to another issue involving whether Nelson was exempt from a required work program due to a disability. There was no expert testimony presented, however, as to whether this disability would have impacted the mental state of Nelson when he withheld knowledge of his household's income. Moreover, the hearing officer determined that Nelson was "an individual

---

<sup>9</sup> Prior to the hearing, the Department did not reimburse the money in the account, to the extent that it had a duty to do so, nor is it apparent from the record that Nelson ever instigated a case against the Department to seek a reimbursement.

Based on the hearing transcript, it is not clear whether the Department stipulated to credit or set off any final award against Nelson by \$348.99. Neither the hearing officer nor the administrator set off the overissuance amount by the amount of erroneous transactions. To the extent that Nelson argues that \$348.99 should be set off against the overissuance, he did not raise this argument before the district court. Accordingly, this argument is waived. *Marcia T. Turner, L.L.C. v. City of Twin Falls*, 144 Idaho 203, 208, 159 P.3d 840, 845 (2007) ("This Court will not consider issues that were not raised before the district court even if those issues had been raised in the administrative proceeding.").

of intelligence, resourcefulness, and one possessed of both clarity of thought and precision in expression of those thoughts” based upon Nelson’s correspondence to various officials that was entered into the record. Specifically, the hearing officer recalled that “it was through [Nelson]’s investigative efforts that Department staff became aware of the unauthorized use of his Food Stamp account in March 2009.” These sentiments were reiterated by the administrator in his final order. Because the evidence of the disability that was presented at the hearing was not relevant to the intentional program violation concerning Nelson’s income, the administrator appropriately found the disability irrelevant to the issues at hand.

**F. Other Arguments**

In his briefing before this Court, Nelson raises several arguments that he did not raise in the district court, some in the facts section and some interspersed with the other issues we addressed above. For instance, Nelson argues that the notices and demand letters served by the Department were not properly served, were insufficient, or were unacceptable. As another example, Nelson contends that the Department ignored his disability and failed to comply with several federal statutes relating to his disability. We need not consider these arguments on appeal because they were not raised before the district court. *Marcia T. Turner, L.L.C. v. City of Twin Falls*, 144 Idaho 203, 208, 159 P.3d 840, 845 (2007) (“This Court will not consider issues that were not raised before the district court even if those issues had been raised in the administrative proceeding.”).

**IV.**

**CONCLUSION**

The administrator’s determination that Nelson committed an intentional program violation in February 2009 by not reporting that his household’s income had exceeded its eligibility limit is supported by substantial evidence. Similarly, the administrator’s determination that Nelson’s intentional program violation caused the Department to overissue food stamps is supported by substantial evidence. Accordingly, the district court’s decision affirming the final agency order is affirmed.

Chief Judge MELANSON and Judge LANSING **CONCUR.**