



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 18433-13 R.E.

AGENCY DKT. NO. GA489988 (SUSSEX COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of General Assistance ("GA") benefits because he has resources exceeding \$2,000 from a Limited Liability Company ("LLC") bank account. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law for a hearing. A hearing was originally scheduled for March 4, 2014, but was rescheduled because the Agency did not receive notice and Petitioner was out of the country between March 5 and March 26, 2014. A hearing was held by the Honorable Leslie Z. Celentano, Administrative Law Judge ("ALJ"), on an unidentified date in April 2014. During the hearing, the ALJ took testimony and admitted documents. On May 2, 2014, the ALJ requested documentation from Petitioner regarding the membership composition of the LLC, as well as identification of who has access to the LLC's bank account. On August 13, 2014, the ALJ issued an Initial Decision, which reversed the Agency's action. The ALJ concluded that the LLC's bank account is not a resource attributable to Petitioner under N.J.A.C. 10:90-3.10(b) because the funds are not within his control, nor does Petitioner have a claim to the funds. However, the ALJ questioned whether Petitioner was eligible for GA based on any income from the LLC or the value of his interest in the LLC.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the Initial Decision and record for this matter, and I REMAND this matter to the AGENCY for further evaluation of Petitioner's eligibility for WFNJ/GA benefits consistent with this Final Decision.

Page 2

Although Petitioner may not have immediate access to the LLC's bank account, this alone does not qualify him for WFNJ/GA benefits. A member of an LLC may receive a salary, dividends or distributions from profits or may be able to access capital. Details regarding the division of profit, management and responsibilities and rights to withdraw capital are typically found in an LLC's Operating Agreement. However, Petitioner's submission of only 2 pages from the LLC's Operating Agreement, which are limited to the LLC membership, does not address any salary, dividend/distribution, profit sharing or access to capital by Petitioner. Further, it does not appear that the Agency has been provided sufficient information to adequately evaluate Petitioner's WFNJ/GA eligibility.

Therefore, I find the record not only lacks adequate information, but raises questions, regarding Petitioner's eligibility for WFNJ/GA benefits. Moreover, I find Petitioner's response to the Agency's request for verification was not only insufficient, but non-responsive. As such, I direct the Agency to re-evaluate Petitioner's eligibility for WFNJ/GA benefits. In order to do so, Petitioner must provide all documentation identified herein and any additional documentation requested by the Agency within 15 business days of this Final Decision. See N.J.A.C. 10:90-1.6(a)(indicating WFNJ/GA "[a]pplicants and recipients are in all instances the primary source of information about themselves and their families.")

In order for the Agency to determine Petitioner's eligibility for WFNJ/GA benefits, Petitioner shall provide the following information:

1. Proof of the LLC's registration with the State of NJ, including New Jersey Tax Identification Number and Certificate of Formation;
2. A complete copy of the LLC Operating Agreement, including any and all schedules, attachments, by-laws, etc.;
3. Copies of any LLC resolutions;
4. Copy of LLC's Articles of Organization;
5. LLC's state tax returns from 2012 through present;
6. A certified financial statement for the LLC;
7. Federal employer identification number;
8. Petitioner's federal and state tax returns from 2012 through present;
9. Petitioner's W-2 forms from 2012 through present from the LLC or any other employer;
10. Whether the LLC is in the process of being dissolved or whether there are plans to dissolve the LLC;
11. If the LLC has been dissolved, whether Petitioner received any proceeds from the LLC's distribution;
12. Whether the LLC has filed for bankruptcy and if so, any court documents related to the bankruptcy;
13. Whether Petitioner has applied for unemployment benefits;

Page 3

14. Current status of Petitioner's vehicle, including, but not limited to, how vehicle payments are being made, name of vehicle financing agency, and proof of non-payment and/or repossession;

15. Whether Petitioner's home is still in foreclosure status and if so, supporting documentation. Petitioner's submission of a notice of intent to foreclose is insufficient proof that Petitioner's home is actually in foreclosure; and

16. Details regarding Petitioner's travel outside the country in March 2014, including how transportation and accommodations were paid for, etc.

By way of comment, if Petitioner is determined ineligible for WFNJ/GA benefits, the Agency should seek recoupment of the benefits he has received pending this fair hearing matter.

Accordingly, this matter is REMANDED to the Agency.

OCT - 1 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director