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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 15917-19 S.C.

AGENCY DKT. NO. C410531016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits, contending that her income put her household over the maximum allowable benefit level for WFNJ/TANF benefits eligibility and terminated her EA benefits because she was not a WFNJ or Supplemental Security Income ("SSI") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially held on December 9, 2019, but was adjourned to allow the Agency to refer Petitioner for a domestic violence ("DV") assessment. The hearing continued on January 16, 2020, and a settlement was reached and memorialized. However, a telephone conference was held on January 17, 2020, at which time the settlement agreement was permitted to be withdrawn, and the matter rescheduled for January 28, 2020. On that date, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow the parties the opportunity to submit post-hearing briefs. The Agency declined to submit a brief. Petitioner's brief was filed on February 4, 2020, and the record then closed. On February 7, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of Petitioner, on February 10, 2020.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and AFFIRM the Agency's determination, based on the discussion below.

In relevant part, pursuant to N.J.A.C. 10:90-3.12(d), at initial determination and redetermination of WFNJ benefits eligibility, the income of the non-eligible alien parent of citizen or eligible alien children "shall be considered available to the eligible assistance unit ["AU"] and shall be calculated in accordance with the parent to minor parent deeming formula at N.J.A.C. 10:90-3.16."

In accordance with N.J.A.C. 10:90-3.16(b), the gross earned income of parents of minor parents is reduced by the appropriate disregard as specified at N.J.A.C. 10:90-3.8, and such income is deemed



available to the eligible AU. Accordingly, once initial financial eligibility for a WFNJ/TANF benefits recipient is found to exist, financial eligibility continues to exist so long as the total countable income of the WFNJ/TANF AU, with benefit of the appropriate disregards, set forth at N.J.A.C. 10:90-3.8 for earned income, is less than the maximum benefit payment level for the appropriate eligible AU size in accordance with Schedule II at N.J.A.C. 10:90-3.3(b). For an AU of one, such as Petitioner's, as of July 1, 2019, the maximum allowable benefit level is \$214. See DFD Informational Transmittal Nos. 19-21.

Only WFNJ cash assistance recipients and SSI recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

Here, the record reflects that the WFNJ/TANF benefits assistance unit ("AU") consists of Petitioner's minor child only, as Petitioner is an ineligible alien for purposes of WFNJ/TANF benefits eligibility. See Initial Decision at 3-4; see also N.J.A.C. 10:90-2.10. As a child only WFNJ/TANF case, Petitioner's household was eligible for EA benefits during such time as Petitioner was unemployed. See N.J.A.C.-6.1(e). Petitioner did not dispute the fact that she, herself, was ineligible for WFNJ/TANF and/or EA benefits due to her alien status. See Initial Decision at 3. The record reflects that Petitioner became employed in September 2019, at which time the Agency attributed 50 per cent of her gross monthly earned income of \$953 (\$220 per week x 4.333) to her child's AU for purposes of WFNJ/TANF benefits eligibility, and determined that the AU was over the maximum allowable benefit level for receipt of WFNJ/TANF benefits. *Ibid.*; see also Exhibit R-1 at 13, 15, 18-19, 25, and "Earnings Statements" attached to Petitioner's post-hearing brief. Based on the foregoing, the Agency terminated the AU's WFNJ/TANF benefits, and consequently, terminated the AU's EA benefits because Petitioner's child was no longer a WFNJ benefits recipient, nor an SSI benefits recipient. See Initial Decision at 1-2; see also Exhibit R 1 at 20-22, and N.J.A.C. 10:90-3.3(b), -6.2(a). Petitioner claimed that the Agency had not applied the appropriate income disregards to her income prior to its determination that that the AU was ineligible for WFNJ/TANF benefits. See Initial Decision at 4. However, the ALJ found that income disregards did not apply to Petitioner's earned income because she was not a WFNJ benefits recipient, and was not a minor parent. *Ibid.*; see also N.J.A.C. 10:90-3.12(b)(1), -3.16(b). Accordingly, the ALJ agreed with the Agency's determination, and concluded that the Agency's termination of Petitioner's WFNJ/TANF and EA benefits was proper and must stand. See Initial Decision at 4; see also Exhibit R-1 at 20-22.

While I agree with the ALJ's ultimate conclusion in this matter, I disagree with ALJ's legal analysis. See Initial Decision at 3-4. Rather, based on an independent review of the record, and a thorough reading of the applicable regulatory authority set forth at N.J.A.C. 10:90-3.12(b)(1) and -3.16(b), I find that Petitioner's income was subject to the earned income disregards set forth at N.J.A.C. 10:90-3.8(a). *Id.* at 2-4. Further, I find that there is no applicable regulatory authority that authorizes the Agency to attribute 50 per cent of Petitioner's income to the AU for purposes of WFNJ/TANF benefits eligibility. *Id.* at 3. Nevertheless, when applying the appropriate disregards to Petitioner's income, I find that Petitioner's gross monthly income of \$953 was over the maximum allowable benefit level of \$214 for WFNJ/TANF benefits eligibility for the AU, beginning November 1, 2019. See Initial Decision at 3; see also Exhibit R-1 at 13, 15, 18-19, 25, and "Earnings Statements" attached to Petitioner's post-hearing brief, and N.J.A.C. 10:90-3.8(b). Consequently, I also find that the AU was ineligible for EA benefits, effective November 1, 2019. See N.J.A.C. 10:90-6.2(a). Based on the foregoing, I find that the Agency's termination of the AU's WFNJ/TANF and EA benefits was proper and must stand. See Initial Decision at 4; see also Exhibit R-1 at 20-22. The Initial Decision is modified to reflect these findings.

By way of comment, I have reviewed the Exceptions submitted on behalf of Petitioner, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED.



Officially approved final version.

Natasha Johnson
Assistant Commissioner

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