



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 10209-20 J.N.

AGENCY DKT. NO. C074901003 (BURLINGTON COUNTY BD. 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, and the reduction of Petitioner's Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits because the household's combined unearned income from Unemployment Insurance Benefits ("UIB") put the WFNJ/TANF assistance unit ("AU") over the maximum benefit eligibility level for receipt of WFNJ/TANF benefits, and terminated Petitioner's EA benefits, because Petitioner was no longer a WFNJ, nor a Supplemental Security Income ("SSI"), benefits recipient. Petitioner's SNAP benefits were reduced due to household's increase in unearned income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A plenary hearing was originally scheduled for December 7, 2020, in Petitioner's companion matter, but that case was consolidated with the present matter and then heard on December 21, 2020. On that date, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record was held open for the parties to submit additional documentation, and then closed on January 22, 2021. On February 11, 2021, the ALJ issued an Initial Decision, affirming the Agency's determinations.

Exceptions to the Initial Decision were filed by Petitioner on February 22, 2021.

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 ADOPT the ALJ's Initial Decision, and AFFIRM the Agency's determination, based on the discussion below.

In evaluating an individual's eligibility for WFNJ/TANF benefits, all countable income and resources of all persons in the assistance unit of which the applicant or recipient is a member, unless exempt, must be considered. See N.J.A.C. 10:90-3.1(a), -3.9(a), -3.10(a), -3.19 and -3.20. Income includes monies received unemployment compensation. See N.J.A.C. 10:90-3.9(a).

Pursuant to N.J.A.C. 10:90-3.1(c), once initial financial eligibility for WFNJ/TANF is found to exist, financial eligibility continues to exist so long as the AU's total countable income (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income, if applicable) is less than the maximum



benefit payment level allowable for the size of the assistance unit, in accordance with Schedule II at N.J.A.C. 10:90-3.3(b). For an assistance unit of six, such as Petitioner's, the maximum allowable benefit level is \$814. See N.J.A.C. 10:90-3.3(b); see also DFD Informational Transmittal ("IT") 19-21.

N.J.A.C. 10:90-3.11(e) requires that WFNJ benefits recipients must report any change in unearned income or circumstances that could affect eligibility to the Agency no later than 10 calendar days after the date the change occurred.

Under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), individuals receiving UI benefits, were entitled to also receive an additional \$600 per week, known as Federal Pandemic Unemployment Compensation ("FPUC"). See Pub. L. 116 – 136, section 2104(b)(1)(B). FPUC payments would end on or before July 31, 2020. *Id.* at 2104(e)(2). Like other UI benefits, FPUC payments are included as unearned income when determining SNAP benefits eligibility. See DFD Instruction ("DFDI") 21-02-05 at 3.

Only WFNJ cash assistance recipients and SSI benefits 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 AU consists of Petitioner, her husband, and four children, and that the AU began receiving WFNJ/TANF benefits in September, 2019. See Initial Decision at 2, 4. The record further reflects that Petitioner filed for UI benefits on May 24, 2020. See Exhibit R-13 at 1. Petitioner was subsequently approved for UI benefits, and began receiving weekly benefits in the amount of \$231 on June 30, 2020, with retroactive benefits awarded to May 30, 2020. *Id.* at 5. After utilizing the correct multiplier of 4.333, times Petitioner's weekly gross UIB benefits, results in a monthly income amount of \$1,000.92, which is above the WFNJ/TANF income eligibility amount for an AU of four persons of \$839. See N.J.A.C. 10:90-3.11(c)(1)(i); see also N.J.A.C. 10:90-3.3(a) and DFD IT No. 19-21. Moreover, the record further reflects that Petitioner received an additional \$600 per week in FPUC funds through July, 2020, and that in June 2020, Petitioner's husband also received weekly UIB in the amount of \$634, covering six weeks in April and May, 2020. See Exhibits R-1, R-14.

During the redetermination for the AU's WFNJ/TANF benefits in September, 2020, the Agency discovered that Petitioner was receiving UIB, and that Petitioner had not notified the Agency of same. See Initial Decision at 3. While both Petitioner and her spouse assert that they had notified the Agency of Petitioner's receipt of UIB during the redetermination telephone call, neither recalls the case worker's name to whom this information was conveyed, and there is no documentation of this claim. *Id.* at 4, 7. Thereafter, by notice dated September 14, 2020, the Agency terminated Petitioner's WFNJ/TANF benefits effective October 1, 2020, and by notice dated September 24, 2020, the Agency terminated Petitioner's EA benefits effective October 24, 2020. See Exhibits R-7, R-8.

Based on the foregoing facts and the evidence presented, the ALJ found that Petitioner was ineligible for WFNJ/TANF benefits, due to excess income from receipt of UIB, and because she was no longer a WFNJ benefits recipient, she was also no longer eligible EA benefits. See Initial Decision at 6-7; see also N.J.A.C. 10:90-3.3(b), -6.2(a). Accordingly, the ALJ concluded that the Agency's termination of Petitioner's WFNJ/TANF and EA benefits was proper and must stand. See Initial Decision at 8; see also Exhibits R-7, R-8. I agree.

Finally, Petitioner asserts that the unemployment compensation that she and spouse have received should be categorized as "disaster" relief, rather than "pandemic" relief, and therefore exempt income in accordance with N.J.A.C. 10:90-3.19. The ALJ in this matter opined that the categorization of "Pandemic Unemployment Assistance" ("PUA"), speaks for itself. See Initial Decision at 7. I agree, as the plain language of the CARES Act, clearly utilizes the word "pandemic." See Pub. L. 116 – 136, section 2102. Moreover, the excluded disaster relief stated in N.J.A.C. 10:90-3.19 is "[m]ajor disaster and emergency assistance granted under Section 105 of P.L. 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988, including FEMA," which is not the unemployment compensation at issue in this matter. See N.J.A.C. 10:90-3.19(a)(13)(ix)(14). As such, I find that



the unemployment compensation received by Petitioner and her spouse are included for both WFNJ and SNAP eligibility determinations as unearned income. See N.J.A.C. 10:90-3.9(a); see also DFDI 20-10-03 at 1.

By way of comment, while the ALJ stated that the household continues to receive the maximum amount of SNAP benefits, due to the ongoing COVID-19 pandemic, I do note that, as a household's total income increases, with all other factors in the allotment calculation remaining constant, the household's SNAP benefits will decrease. See Exhibit R-7 (showing the revised SNAP allotment calculations for Petitioner's household with the increased income from UIB, resulting in a reduction of SNAP benefits).

By further way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is AFFIRMED, as outlined above.

Officially approved final version.

MAR 1 8 2021

Natasha Johnson
Assistant Commissioner

