



## State of New Jersey

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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 11337-20 V.T.

AGENCY DKT. NO. C059186018 (SOMERSET 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") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits because the household's monthly unearned income from child support payments put the WFNJ/TANF assistance unit ("AU") over the maximum benefit eligibility level for receipt of WFNJ/TANF benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 19, 2021, the Honorable Elia A. Pelios, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On January 25, 2021, the ALJ issued an Initial Decision, affirming the Agency's determinations.

No Exceptions to the Initial Decision were received.

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.

The purpose of the WFNJ Program is to assist needy individuals by providing them with transitional support that enables them to become self-sufficient and avoid the need for public assistance in the future. See N.J.S.A. 44:10-56. TANF is a component of WFNJ that provides assistance to adults with dependent children. See N.J.A.C. 10:90-1.1(b). 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 as child support payments. See N.J.A.C. 10:90-3.10(b).

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 two, such as Petitioner's, the maximum allowable benefit level is \$425. See N.J.A.C. 10:90-3.3(b); see also DFD Informational Transmittal ("IT") 19-21.



In accordance with N.J.A.C. 10:90-3.8(h) governing child support income, the total amount of child support received is considered income for purposes of WFNJ/TANF benefits eligibility. Eligibility for WFNJ/TANF benefits exists "provided that the total amount of child support received for that month is less than the monthly WFNJ grant amount." Once eligibility is established, the WFNJ/TANF benefits recipient retains up to \$100 of their total child support income, and that \$100, or any lesser amount retained, is disregarded as income. Ibid.; see also DFD Instruction 09-1-4.

Additionally, N.J.A.C. 10:90-3.11(a) states, "WFNJ eligibility and cash assistance benefit calculations shall be based on an estimate of the assistance unit's income, using income averaging and, other circumstances that will exist until the assistance unit reports a change in circumstances or at the time of case redetermination, whichever occurs first. The estimate of income is based on the assistance unit's and the agency's reasonable expectations and knowledge of current, past and future circumstances."

Here, the record reflects that the WFNJ/TANF benefits AU consists of Petitioner and her child. See Initial Decision at 2. In September, 2020, the Agency learned that Petitioner was receiving additional unearned income from child support payments. Ibid. Based upon an average of the child support payments from June, July, and August, 2020, it was determined that Petitioner was receiving \$676 per month in child support payments, and even after application of the \$100 disregard amount, the remaining \$576 was above the WFNJ/TANF benefit level of \$425, and Petitioner was no longer eligible for WFNJ/TANF benefits. Ibid.; see also Exhibit R-1, N.J.A.C. 10:90-3.3(b), -3.8(h), and DFD IT 19-21. The record further reflects that, in preparation for the hearing, the Agency recalculated the average of Petitioner's child support payments, using the child support payments received during November and December, 2020, averaging to \$596, which still is above the WFNJ/TANF benefit level after the application of the \$100 disregard. See Initial Decision at 2, 3; see also Exhibit R-1. Based on the foregoing, the ALJ found that Petitioner did not meet the financial eligibility criteria for continued WFNJ/TANF benefits, and therefore, the Agency's termination was proper and must stand. See Initial Decision at 3. I agree.

Additionally, Petitioner contended that she should have received WFNJ/TANF benefits pending the fair hearing. Ibid. However, based on the record presented, and in accordance with applicable regulatory authority, requiring that a request for a fair hearing be made within fifteen days from the Agency's adverse action, the ALJ found that Petitioner was not entitled to continued benefits pending the fair hearing. Ibid.; see also N.J.A.C. 10:90-9.3. I also agree, and further note, that when a benefits recipient is unsuccessful at a fair hearing, any continued benefits, paid pending the fair hearing, are subject to recoupment. See N.J.A.C. 10:90-3.21(a)(1).

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

FEB 25 2021

Officially approved final version.

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Natasha Johnson  
Assistant Commissioner

