



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

SARAH ADELMAN  
*Commissioner*

SHEILA Y. OLIVER  
*Lt. Governor*

TRENTON, NJ 08625-0716

NATASHA JOHNSON  
*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 03663-22 C.A.

AGENCY DKT. NO. C159490011 (MERCER 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 purportedly terminated Petitioner's WFNJ/TANF benefits, contending that there was no longer an eligible child in the assistance unit ("AU"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for June 7, 2022. During the pre-hearing conference, it was determined that, if the child in question finished high school prior to his nineteenth birthday, the AU would remain eligible for WFNJ/TANF benefits until the child turned 19. The hearing was then adjourned to allow Petitioner to contact the child's school with respect to the projected date of graduation. On the rescheduled hearing date of July 14, 2022, the matter was again adjourned in order to permit the child to appear and offer testimony. On February 1, 2023, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held the plenary hearing, took testimony, and admitted documents. On February 17, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination.

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 MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

In relevant part, pursuant to N.J.A.C. 10:90-2.7(a)(1) an eligible WFNJ/TANF AU is comprised of the parent(s), parent person(s), or legal guardian and his or her related dependent child(ren) who are living together and function as one economic unit. The related dependent child(ren) are eligible for WFNJ/TANF benefits "up to the age of 18, or up to the age of 19, if they are in a secondary school, or in the equivalent level of vocational or technical training, and are reasonably expected to complete the program before reaching age 19." Further, N.J.A.C. 10:90-2.7(b) states, "a recipient child cannot be included in the WFNJ/TANF cash payment after the month in which he or she attains the age when he or she is no longer eligible as a child. Furthermore, an individual who attains such age on the first day of the month is not considered to be of eligible age during that month and is not eligible for inclusion in the grant for that month. Additionally, the assistance unit ceases to be eligible for WFNJ/TANF when



the youngest assistance unit member is no longer of eligible age. However, the individual adult(s) may apply for assistance under the [Work First New Jersey/General Assistance (“WFNJ/GA”)] component.”

A WFNJ/GA AU typically consists of one adult individual or a couple without dependent children. See N.J.A.C. 10:90-2.7(b)(1).

Pursuant to N.J.A.C. 10:90-9.1, an Agency must provide both adequate and timely notice advising of a termination, denial or suspension of welfare benefits. Adequate notice is a written notice outlining the intended action and the reasons for the action. See N.J.A.C. 10:90-9.1(a). Timely notice is defined as “a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action.” See N.J.A.C. 10:90-9.1(b)(1). When the Agency’s decision adversely affects a benefits recipient, there cannot be a change to the recipient’s benefits until 10 calendar days after the mailing date of the notice. See N.J.A.C. 10:90-9.1(c).

An independent review of the record reflects that Petitioner was receiving WFNJ/TANF benefits in February 2022, and that her child, M.S., would turn 18 at the end of February, 2022, and that the child was still in high school. See Initial Decision at 2, 3. In accordance with N.J.A.C. 10:90-2.7(b), without proof that M.S. would complete high school before he turned 19 years of age in February 2023, the last month that M.S. could be included as part of the WFNJ/TANF AU was in February 2022. I hereby take official notice that records of this office indicate that Petitioner did, in fact, receive WFNJ/TANF benefits in the month of February 2022. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). During the hearing before the ALJ, Petitioner maintained that she did not receive proper notice of the termination of WFNJ/TANF benefits effective March, 2022, yet the record reflects that Petitioner did, in fact, call DFD to request a fair hearing on the termination on February 22, 2022, prior to the first non-payment of WFNJ/TANF benefits in March 2022. See Initial Decision at 3. This fact certainly calls into question if written and timely notice had, in fact, been actually issued by the Agency about the termination, and not merely a computerized severing of WFNJ/TANF benefits, as represented at the hearing. *Id.* at 4, 8. Regardless, the fact remains that it was the Agency’s burden of proof in this matter to show that the adverse action taken was proper, and that timely and adequate notice had been provided in accordance with applicable regulatory authority. See N.J.A.C. 10:90-9.1. The ALJ in this matter found that Petitioner had not been provided with proper written notice and reversed that Agency’s termination of WFNJ/TANF benefits. See Initial Decision at 8, 9. I agree with the ALJ ultimate conclusion in this matter, namely, that the burden of proof was not met. However, as Petitioner’s child has now passed the age of nineteen, and clearly can no longer be included in the WFNJ/TANF AU, and as Petitioner is also no longer eligible for WFNJ/TANF benefits with no other eligible related dependent children in the home, the Agency shall expeditiously issue proper timely and adequate notice to terminate Petitioner’s WFNJ/TANF benefits, if it has not already done so. See N.J.A.C. 10:90-2.7(a), -9.1. The Initial Decision is modified to reflect the above findings and analysis.

By way of comment, Petitioner and her nineteen year old child are without prejudice to apply separately for WFNJ/GA benefits. See N.J.A.C. 10:90-2.7(b).

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency’s determination is REVERSED, as outlined above.

Officially approved final version. March 28, 2023

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Natasha Johnson  
Assistant Commissioner

