



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 **07946-23 H.E.**

AGENCY DKT. NO. **S474373014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)**

Petitioner challenges the correctness of the Respondent Agency's claim for recovery of Work First New Jersey/General Assistance ("WFNJ/GA") benefits. The Agency asserts that Petitioner received an overpayment of WFNJ/GA benefits as the result of having received continued assistance of WFNJ/GA benefits, pending the outcome of a prior fair hearing, to which she was not entitled and must now be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On October 13, 2023, the Honorable Joseph A. Ascione, 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 additional documents. No additional documents were submitted, and the record then closed on October 23, 2023. On October 30, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I hereby MODIFY the Initial Decision, and MODIFY the Agency's action, based on the discussion below.

Under the WFNJ regulations, a recipient is required to satisfy any repayment obligation pursuant to state or Federal law governing public assistance. See N.J.A.C. 10:90-2.2(a)(7). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions." See N.J.A.C. 10:90-3.21(a)(1) (emphasis added).

Here, the record reflects that Petitioner's WFNJ/GA benefits were sanctioned and ultimately suspended, effective January 1, 2020. See Exhibit R-1 at 2, 18, 20-21. Petitioner requested a fair hearing on sanctioning and subsequent suspension, and the case was sent to the OAL and the matter docketed under OAL Docket number HPW 00835-20. See Initial Decision at 2; see also Exhibit R-1 at 16-17, 19. A hearing was initially scheduled for February 4, 2020, and then adjourned to February 27, 2023, with continued assistance of benefits being provided pending the final decision in the case. See Initial



Decision at 2-4; see also Exhibit R-1 at 16-17, 19, 22-26, and N.J.A.C. 10:90-9.3(e). The record reflects that additional adjournments occurred thereafter, with the case being scheduled for March 25, 2020, and then rescheduled for July 7, 2020, during which time Petitioner received further continued assistance benefits. See Initial Decision at 2-4; see also Exhibit R-1 at 14-15. While the earlier hearing dates had been adjourned for good cause reasons, including Petitioner's request to obtain legal counsel and then the start of the COVID-19 pandemic, Petitioner failed to appear for the July 7, 2020 hearing. See Initial Decision at 2-3. Petitioner made no request to reopen the matter, nor was any appeal taken, and the record then closed on August 11, 2020, and the matter was dismissed by the OAL as a failure to appear. See Initial Decision at 2; see also Exhibit R-1 at 12.

As a result of that dismissal, the ALJ in the present case found that Petitioner had received continued assistance of WFNJ/GA benefits, pending the prior fair hearing, for the months of January 2020, February 2020, April 2020, May 2020, June 2020, and July 2020, totaling \$1,110, to which she was not entitled because she did not win her prior fair hearing. See Initial Decision at 2-4; see also Exhibit R-1 at 2-11, and N.J.A.C. 10:90-9.3(e). The Agency agreed to amend its overissuance amount from \$1,295 to \$1,110 to reflect that the issued benefits for March 2020 had not been expended by Petitioner. See Initial Decision at 3. Petitioner did not dispute the receipt of continued assistance benefits in the amount of \$1,110. *Id.* at 2-3. In accordance with regulatory authority, when a WFNJ benefits recipient receives benefits to which they were not entitled, because the benefits recipient received continued benefits pending the outcome of a fair hearing, but is unsuccessful in the fair hearing, withdraws the fair hearing request, or fails to appear for the fair hearing, that amount constitutes an overpayment, which the Agency is mandated to recoup. See N.J.A.C. 10:90-3.21(a)(1). Based on the foregoing, the ALJ concluded that Petitioner was overissued WFNJ/GA benefits to which she was not entitled, in the amount of \$1,110, and therefore further concluded that the Agency is entitled to recoup, and Petitioner must repay, the overpayment of WFNJ/GA benefits to which she was not eligible to receive. See Initial Decision at 4; see also Exhibit R-1 at 2-11, and N.J.A.C. 10:90-2.2(a)(7), -3.21(a)(1). I agree. However, the Initial Decision is modified to reflect the correct WFNJ legal authority in this matter, as the record reflects that the ALJ mistakenly cited to the Supplemental Nutrition Assistance Benefits ("SNAP") regulation N.J.A.C. 10:87-11.20(a) as the legal basis in this matter. See Initial Decision at 4. Additionally, the Agency's action is modified to reflect the amended overissuance amount to be recouped from \$1,295 to \$1,110. See Initial Decision at 3; see also Exhibit R-1 at 6-11.

I ORDER and direct that the Agency proceed to recoup the overissuance.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is MODIFIED, as outlined above.

Officially approved final version. December 21, 2023

Natasha Johnson
Assistant Commissioner

