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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 11317-22 T.H.

AGENCY DKT. NO. **C686119007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF"), and Emergency Assistance ("EA"), benefits. The Agency denied Petitioner WFNJ/TANF benefits, contending that she failed to cooperate with child support requirements, and denied Petitioner EA benefits because she was not a WFNJ benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 22, 2022, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 23, 2022, 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, 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 REVERSE the Agency determinations in this matter, based on the discussion below.

Pursuant to N.J.A.C. 10:90-16.2, the first step in the application process for WFNJ/TANF eligibility, is cooperation with the child support requirements set out in N.J.A.C. 10:90-16.3, and the good faith effort requirement set out in N.J.A.C. 10:90-16.4.

Pursuant to N.J.A.C. 10:90-16.4(b)(1), (2), cooperation in good faith for WFNJ/TANF applicants shall include, but is not limited to, providing the Agency with information, to the best of the applicants ability, related to the non-custodial parent, which shall include at least three of the following: the parents full name; date of birth; Social Security number address (current or last known); employer (current or last known) or other sources of income; manufacturer, model and license plate number of automobile; motor vehicle driver's license number; the address and/or name of the non-custodial parent's parent(s) or siblings(s).

A review of the record in this matter shows that, in accordance with regulatory authority cited above, the Agency attempted to reach Petitioner at two different telephone numbers in order to complete Petitioner's application process for WFNJ/TANF benefits. See Initial Decision at 2; see also Exhibit R-1. Testimony elicited at the hearing showed that neither of the telephone numbers used by the Agency, in its attempts to reach Petitioner, were valid, nor was any evidence presented regarding how many attempts were made to reach Petitioner. See Initial Decision at 2. Moreover, it is clear that the Agency had placed Petitioner at a shelter on an immediate need basis, that the Agency maintains a good working relationship with that shelter where Petitioner was residing, and as such, had the Agency attempted to contact Petitioner through the shelter, such contact would clearly have been successful. Id. at 2-3. With respect to the



child support information needed for completion of Petitioner's WFNJ/TANF application, the ALJ found Petitioner credible when she testified that the non-custodial parent of Petitioner's minor children is presently incarcerated, serving a rather lengthy sentence, and thus it is highly unlikely that she will receive much, if any, child support monies from him. Id. at 3, 4. Based on Petitioner's sworn testimony in the fair hearing, and the ALJ's finding of Petitioner's credibility, I find that Petitioner has, in good faith, cooperated and complied with child support requirements, and therefore direct the Agency to approve Petitioner's application for WFNJ/TANF benefits. See N.J.A.C. 10:90-16.3. However, it is unclear from the record presented, if basic required information pertaining to the non-custodial parent has been provided to the Agency, such as name, date of birth, and place of incarceration. See N.J.A.C. 10:90-16.4(b)(1). As such, if Petitioner has not yet provided basic required information pertaining to the non-custodial parent, Petitioner is directed to provide such information to the Agency within fifteen (15) days of this Final Decision. Furthermore, while Petitioner is receiving WFNJ/TANF benefits, she is advised that she must advise the Agency of any change in her circumstances with respect to this issue, namely, if the non-custodial parent is released from incarceration, and/or any child support monies are received. The Initial Decision is modified to reflect these findings.

Additionally, the ALJ concluded that the Agency's failure to provide Petitioner's case file for the hearing constituted a violation of Petitioner's due process rights. See Initial Decision at 3, 5. I agree, and remind the Agency of its responsibilities in the presentation of a matter at a plenary hearing before an ALJ. See N.J.A.C. 10:90-9.12(b) (stating that "[t]he county or municipal representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action."). I do note, as did the ALJ, that this failure in the present case is not the fault of the Fair Hearing Liaison, who was put in the uncomfortable position in this proceeding without proper complete documentation or a corroborating witness.

Based on the foregoing, I agree with the ALJ's conclusion in this matter that the Agency's denial of WFNJ/TANF benefits was improper and must be reversed. See Initial Decision at 5. Furthermore, as Petitioner has been found eligible for WFNJ/TANF benefits, I further find that Petitioner is eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

By way of comment, the Agency is ensure that its records are updated with the correct contact information for Petitioner, as was obtained in the course of the fair hearing.

Accordingly, the Initial Decision is hereby MOFIFIED, and the Agency's determinations are REVERSED, as outlined above.

Officially approved final version. January 12, 2023

Natasha Johnson
Assistant Commissioner

