



## State of New Jersey

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*Governor*

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DIVISION OF FAMILY DEVELOPMENT  
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*Director*

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 08779-18 A.A.

AGENCY DKT. NO. C218994020 (UNION COUNTY DIVISION 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. The Agency terminated Petitioner's WFNJ/TANF benefits contending that her monthly child support payments ("CSP") put her income above the allowable WFNJ/TANF benefit eligibility level. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 27, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 7, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby REJECT the ALJ's Initial Decision, and MODIFY the Agency's determination, as discussed below.

Pursuant to N.J.A.C. 10:90-3.1(c), once initial financial eligibility for WFNJ/TANF benefits is found to exist, financial eligibility continues to exist "as long as the total countable income of a WFNJ/TANF benefits assistance unit (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income) is less than the maximum benefit payment level for the appropriate eligible assistance unit size," in accordance with Schedule II at N.J.A.C. 10:90-3.3(b). For an assistance unit of three, the maximum allowable benefit level is \$424. Ibid.

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."



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Based on an independent review of the record, I find that Petitioner is ineligible for WFNJ/TANF benefits, and as such, also ineligible for EA benefits. See N.J.A.C. 10:90-3.3(b), -3.8(h), -6.2(a). Specifically, the record reflects that in March 2018, Petitioner received \$836 in total child support; in April 2018, Petitioner received \$1,045 in total child support; and in May 2018, Petitioner received \$836 in total child support. See Exhibit R-2. It should be noted that the total child support amount includes both the amounts issued directly to Petitioner, as well as the amounts paid to the Agency. Ibid. Petitioner's child support payments appear, for the most part, to occur weekly in the amount of \$209. Ibid. In accordance with N.J.A.C. 10:90-3.11(a), (b), (c) that weekly amount, once averaged, is then multiplied by 4.333 in order to determine Petitioner's gross monthly income, which thereby totals \$906.

Based on the foregoing, I find that Petitioner's child support income exceeds the maximum allowable benefit level of \$424 for an assistance unit of 3, and as such, Petitioner is ineligible for WFNJ/TANF benefits and the \$100 disregard does not apply. See N.J.A.C. 10:90-3.3(b), -3.8(h). Therefore, although neither the Agency, nor the ALJ, have properly applied the regulatory authority set forth at N.J.A.C. 10:90-3.8(h) in this case, I find that the Agency's termination of Petitioner's WFNJ/TANF benefits was proper and must stand. See Initial Decision at 3-5; see also Exhibits R-1, R-2, and N.J.A.C. 10:90-3.1(c), -3.3(b), -3.8(h), -3.9, and -3.11. However, since I find that the Agency incorrectly calculated Petitioner's total child support income, underlying the Agency's termination of Petitioner's WFNJ/TANF benefits, the Agency's determination is modified to reflect the proper amounts as set forth above. See Initial Decision at 2-5; see also Exhibits R-1, R-2.

By way of comment, as it appears from the record that Petitioner may have an open case with the Division of Child Protection and Permanency ("DCPP"), a copy of the Initial and Final Decisions shall be forwarded to DCPP.

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

OCT 23 2018

Officially approved final version.

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Natasha Johnson  
Director

