



State of New Jersey

CHRIS CHRISTIE
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716
TRENTON, NJ 08625-0716

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

NATASHA JOHNSON
Director
Tel: (609) 588-2000

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 14776-17 S.A.

AGENCY DKT. NO. C071317014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)

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 because it determined that Petitioner's assistance unit ("AU") income was over the allowable benefit level for such benefits, and terminated Petitioner's EA benefits because she was no longer a WFNJ benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 26, 2017, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. The record remained open for the submission of additional documents by Petitioner, then closed on November 1, 2017. On November 16, 2017, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were received from the Agency on November 29, 2017.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I REJECT the ALJ's Initial Decision and MODIFY the Agency's determination as outlined 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 so long as the total countable income of the AU, 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 AU size in accordance with Schedule II at N.J.A.C. 10:90-3.3(b). For an AU of three, the maximum allowable benefit level is \$424. Ibid.

In computing the cash assistance benefit for WFNJ recipients, all earned and unearned income shall be determined by using a prospective budgeting methodology. See N.J.A.C. 10:90-3.11(a). WFNJ eligibility and cash assistance benefit calculations shall be based on an estimate of the AU's income, using income averaging and other circumstances that will exist until the AU reports a change in circumstance. Ibid. For purposes of determining financial eligibility and benefits, the Agency shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application, redetermination, or change in circumstance. See N.J.A.C. 10:90-3.11(b). Since the receipt of income by a WFNJ individual usually occurs weekly, bi-weekly, or on a semi-monthly basis, the Agency shall convert the averaged income amount to a gross monthly amount by multiplying the averaged income amount by the appropriate conversion rate. See N.J.A.C. 10:90-3.11(c)(1). Thereafter, for those recipients who are employed an average of 20 hours or more per week, the appropriate disregards are applied to the recipient's gross income to determine eligibility for WFNJ/TANF benefits. See N.J.A.C. 10:90-3.8(b).



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In the present matter, the record shows that Petitioner filed a redetermination for WFNJ/TANF benefits on January 13, 2017. See Initial Decision at 3; see also Exhibit R-5. Although Petitioner submitted her husband's wage information at the time of her redetermination, her husband began work at a new job on January 15, 2017, and thereafter, he supplied the Agency with his three bi-weekly paychecks outlining his new earned income amounts. See Initial Decision at 3-4; see also Exhibit R-1. Based on the submission of Petitioner's husband's paychecks, the Agency determined that the AU's average monthly earned income was \$1,239 beginning in March 2017. See Initial Decision at 4; see also Exhibits R-6, R-8. However, the ALJ determined that Petitioner's monthly earned income could not be averaged out to \$1,239 per month based on the evidence presented, and reversed the termination of WFNJ/TANF and EA benefits by the Agency. Based on the evidence presented, I respectfully disagree with ALJ's decision.

The paystubs provided by Petitioner outline approximately 42 days of earning history with payment occurring on a bi-weekly basis. See Exhibit R-1. The Agency, in its calculation of Petitioner's AU's income, mistakenly used a weekly income multiplier, instead of the bi-weekly multiplier, that was appropriate in this matter. See Initial Decision at 2; see also Exhibit R-8 and N.J.A.C. 10:90-3.11(c)(1). After an independent review of the record, it is clear that Petitioner's husband's paychecks were issued on a bi-weekly basis, and therefore subject to a multiplier of 2.167 as dictated by N.J.A.C. 10:90-3.11(c)(1)(ii). In addition, the record shows that Petitioner's husband worked a total of 95.78 hours over the course of three pay periods for an average of 31.93 hours per pay period, at a wage of \$9.25 per hour, which equals an average pay of \$295.35 per pay period. See Initial Decision at 3-4; see also Exhibit R-1. Applying the correct multiplier of 2.167 to Petitioner's husband's average bi-weekly income of \$295.35 equates to an average monthly income of \$640.02. For an assistance unit of three, the maximum allowable benefit level for receipt of WFNJ/TANF benefits is \$424. Therefore, Petitioner's AU is over the allowable benefit level for receipt of WFNJ/TANF benefits. See N.J.A.C. 10:90-3.3(b). Further, Petitioner's husband averages 31.92 hours per bi-weekly pay period, which equates to an average of less than 16 hours per week of work hours. See Exhibit R-1. Therefore, because Petitioner's husband does not average at least 20 hours per week of working hours, Petitioner's AU is not eligible for any income disregards. See N.J.A.C. 10:90-3.8(b). Accordingly, I find that the Agency's termination of Petitioner's WFNJ/TANF benefits was proper, as modified by the calculations above. See Exhibit R-4; see also N.J.A.C. 10:90-3.1(c), -3.3(b).

Also, I find that because Petitioner is no longer a WFNJ cash benefits recipient, she is ineligible for EA benefits. See N.J.A.C. 10:90-6.2(a). Therefore, I find that the Agency's termination of Petitioner's EA benefits was proper and must stand. See Exhibit R-2.

Based on the foregoing, the Initial Decision is REJECTED and the Agency's action is MODIFIED based on the discussion above.

Officially approved final version.

JAN 22 2018

Natasha Johnson
Director

