



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 **02265-22 L.V.**

AGENCY DKT. NO. **S607720012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance benefits. The Agency terminated Petitioner's WFNJ/TANF for a period of nine months due to the receipt of a lump sum Unemployment Insurance Benefits ("UIB") payment, and terminated Petitioner's EA benefits because she was not a WFNJ or Supplemental Security Income ("SSI") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for April 8, 2022, but was adjourned at the telephonic prehearing conference, to allow Petitioner the opportunity to gather proofs for the Agency to review and reconsider its determination. The ALJ had not heard back from the parties regarding any resolution of the matter, and the hearing was then rescheduled for May 19, 2022. On that date, the Honorable Sarah H. Surgent, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On May 31, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were received from the Agency on June 7, 2022.

As Assistant Commissioner, Division of Family Development, 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 MODIFY the Agency's determination, based on the discussion below.

When a nonrecurring earned or unearned lump sum payment is received, that income shall be used to repay assistance granted in accordance with the agreement to repay. After the agreement to repay is satisfied, any lump sum remaining will be added together with all other countable income received that month by the eligible assistance unit after application of the appropriate disregards. N.J.A.C. 10:90-3.18(c). An appropriate disregard is considered as money spent to "purchase items that are integral in promoting self-sufficiency, such as the purchase of a first vehicle, vehicle repairs or essential household items." N.J.A.C. 10:90-3.18(c)(1). After any such appropriate disregard is applied, if the remaining amount exceeds 200 percent of the payment level for the assistance unit size then the



assistance unit is ineligible for the number of full months derived by dividing this total income by the payment level applicable to the eligible assistance unit size. N.J.A.C.10:90-3.18(d).

Here, the record reflects that, based on Petitioner's receipt of a retroactive UIB lump sum payment in the amount of \$8,028, the Agency terminated Petitioner's WFNJ/TANF benefits for a period of 9.4 months, and terminated Petitioner's EA benefits because she was no longer a WFNJ/TANF benefits recipient. See Initial Decision at 2-3; see also Exhibits R-T at 2-12, R-E at 28-30, and N.J.A.C. 10:90-3.18(c), -6.2(a)(limiting eligibility for EA benefits to WFNJ and Supplemental Security Income benefits recipients). The ALJ found that because Petitioner had purchased a "much needed" used automobile "integral in promoting self-sufficiency," that she was exempt from the WFNJ repayment requirement, that no WFNJ/TANF benefits penalty applied, and as such, reversed the Agency's termination of Petitioner's WFNJ/TANF and EA benefits. See Initial Decision at 3-5; see also Exhibits P-1 at 9-14, R-T at 12, R-E at 28-30, and N.J.A.C. 10:90-3.18(c)(1). However, as discussed below, I find the ALJ's regulatory analysis to be misplaced. See Initial Decision at 4-5; see also N.J.A.C. 10:90-3.18(c). Further, the ALJ also relied upon S.R. v. Essex County Div. of Welfare, 2006 N.J. AGEN LEXIS 497 (Aug. 3, 2006) in reaching the ultimate conclusion in this matter. See Initial Decision at 4-5. However, I find that the administrative law judge in the Essex case had also misapplied the regulatory authority set out in N.J.A.C. 10:90-3.18(c), admittedly stating that said regulation was not "precisely applicable" in that matter, as the purchase of an automobile is permissible from the remainder of the monies left after first repaying the WFNJ/TANF benefits that had been received, but nevertheless disregarded clear regulatory authority allowing for the purchase of an automobile without first repaying said benefits, resulting in a windfall for the Petitioner in that case.

Based on an independent review of the record, I find that for the period of time that Petitioner had received WFNJ/TANF benefits from March 1, 2021 through December 31, 2021, she later received a retroactive lump sum UIB payment in the amount of \$6,021, not \$8,028, the lump sum amount used by the Agency to calculate Petitioner's WFNJ/TANF benefits 9.4-month penalty period. See Initial Decision at 2; see also Exhibit R-T at 2-7. On that basis, the legal analysis is as follows. First, in accordance with clear regulatory authority, I find that Petitioner was required to pay back her receipt of WFNJ/TANF and Emergency Assistance ("EA) benefits from that lump sum UIB payment of \$6,021 before the purchase price of her automobile could be disregarded from any remainder of that lump sum payment. See N.J.A.C. 10:90-3.18(c) -3.18(c)(1). Thereafter, had any lump sum monies remained after such purchase, the formula set out in N.J.A.C. 10:90-3.18(d) would be applied to determine the WFNJ/TANF benefits penalty period. However, Petitioner did not repay her WFNJ/TANF benefits, as required, prior to purchasing her automobile, and therefore, no disregard can be applied for said purchase. See Initial Decision at 4. Moreover, Petitioner is not exempt from the WFNJ/TANF benefits repayment, as concluded by the ALJ simply because she purchased a "much needed motor vehicle." *Id.* at 4-5. To determine otherwise would fly in the face of the relevant regulatory authority, and would result in a windfall to which Petitioner is not entitled. See N.J.A.C. 10:90-3.18(c)(1). Due to Petitioner's failure to pay back her WFNJ/TANF benefits, I find that the entire UIB lump sum payment of \$6,021 must be used to calculate her WFNJ/TANF benefits penalty period. Specifically, in accordance with the regulatory authority set forth at N.J.A.C. 10:90-3.18(d), Petitioner's UIB lump sum amount of \$6,021 is divided by \$850, which is 200% of the WFNJ/TANF payment level for an assistance unit of two such as Petitioner's, resulting in a WFNJ/TANF benefits penalty period of 7.08 months. See Exhibit R-T at 2-6, 11.

Further, the record indicates that Petitioner's WFNJ/TANF benefits were terminated, effective December 1, 2021, and that she has not been receiving continued assistance pending the outcome of this hearing, and as such, I find that Petitioner has now served her 7.08 month WFNJ/TANF benefits penalty period. Finally, I find that because Petitioner's WFNJ/TANF benefits were properly terminated, albeit for 7.08 months, rather than the 9.4 months as determined by the Agency, Petitioner was also ineligible for EA benefits during that 7.08 month time period. See N.J.A.C. 10:90-6.2(a). Therefore, although Petitioner is not entitled to retroactive WFNJ/TANF or EA benefits, she is advised that she may reapply



for said benefits. The Initial Decision and the Agency's determination are modified to reflect these findings.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Based on the foregoing, the Initial Decision is MODIFIED and the Agency's action is MODIFIED, as outlined above.

Officially approved final version.

July 14, 2022

Natasha Johnson
Assistant Commissioner

