



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

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **07484-22 R.K.**

AGENCY DKT. NO. **S463401014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)**

Petitioner appeals from Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") and Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/GA benefits for a period of 32 months due to the receipt of lump sum Unemployment Insurance Benefits ("UIB") payments. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 23, 2022, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open until October 3, 2022, to allow Petitioner the opportunity to submit documents, and then closed on that date. On October 6, 2022, the ALJ issued an Initial Decision, affirming the Agency's terminations.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), 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 determinations, based on the discussion below.

Financial eligibility for Work First New Jersey ("WFNJ") benefits is determined based upon the assistance unit's ("AU") countable income, both earned and unearned, as well as countable resources. See N.J.A.C. 10:90-3.1(a). Pursuant to N.J.A.C. 10:90-3.1(c), once initial financial eligibility for a WFNJ/GA benefits recipient is found to exist, financial eligibility continues to exist so long as the total countable income of the WFNJ/GA AU, with benefit of the appropriate disregards set forth in N.J.A.C. 10:90-3.8 for earned income, if applicable, is less than the maximum benefit payment level for the appropriate eligible AU size in accordance with Schedule IV at N.J.A.C. 10:90-3.5(b). Effective July 1, 2019, the benefit level for an employable WFNJ/GA AU, consisting of one person, is \$185 per month, and for an unemployable WFNJ/GA AU of one person, is \$277 per month. See N.J.A.C. 10:90-3.5(b); see also DFD Informational Transmittal ("IT") No. 19-21 at 3, 4.

Unearned income, for WFNJ purposes, includes UIB payments. See N.J.A.C. 10:90-3.9(e).



WFNJ assistance units are required to report any changes in unearned income, including UIB payments, that would affect eligibility as soon as possible to the Agency, but in no event later than 10 calendar days from the date the change in income occurred. See N.J.A.C. 10:90-3.11(e).

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). “In the event the nonrecurring income is not reported timely, the period of ineligibility shall begin at the point the ineligibility would have occurred had the county or municipal agency had knowledge of its receipt. The amount of overpayment for the period of ineligibility must be established and recovery made.” N.J.A.C. 10:90-3.18(e)(2).

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 means a financial assistance payment, including EA benefits, issued on behalf of an AU which exceeds the amount to which the AU was entitled. See N.J.A.C. 10:90-3.21(a). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, “regardless of fault, including overpayments caused by administrative action or inaction[.]” See N.J.A.C. 10:90-3.21(a)(1).

Only WFNJ cash assistance recipients and Supplemental Security Income (“SSI”) benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

Here the ALJ found, Petitioner acknowledged, and the record substantiates that Petitioner had received retroactive UIB lump sum payments totaling \$16,151, during April and May of 2021. See Initial Decision at 2; see also Exhibit R-3. The record also reflects that due to Petitioner’s receipt of said payments, the Agency terminated Petitioner’s WFNJ/GA benefits on June 2, 2022, and imposed a period of WFNJ ineligibility of 32 months, beginning July 1, 2021, and also terminated Petitioner’s EA benefits. *Ibid.*; see also Exhibit R-2, and N.J.A.C. 10:90-3.18(c), (d). Based on the evidence and testimony provided, the ALJ concluded that the Agency’s termination of Petitioner’s WFNJ/GA and EA benefits was proper, but that the period of Petitioner’s WFNJ/GA benefits ineligibility could not be determined from the record provided. See Initial Decision at 4.

While I agree with the ALJ’s conclusion that the Agency properly terminated Petitioner’s WFNJ/GA benefits, based upon an independent review of the record, I find that in accordance with applicable regulatory authority, Petitioner was required to advise the Agency of his receipt of said retroactive UIB payments within 10 calendar days, and to pay back his receipt of WFNJ/GA and EA benefits, for the period overlapping with eligible UIB, from the total lump sum UIB payment of \$16,151 before any allowable purchases from any remainder of that lump sum payment could be disregarded, but Petitioner failed to do so. See Initial Decision at 2-4; see also Exhibits R-1 at 16-17, 34, 39, R-3, and N.J.A.C. 10:90-3.11(e), -3.18(c), (1). Had any lump sum monies remained after repayment, and after any allowable purchase(s) had been disregarded, the formula set out in N.J.A.C. 10:90-3.18(d) would be applied to such lump sum remainder to determine the WFNJ/GA benefits ineligibility period. See N.J.A.C. 10:90-3.18(c), (c)(1), (d). However, as Petitioner did not repay his WFNJ/GA or EA benefits for the period overlapping with eligible UIB, nor did he provide any evidence of any allowable disregard purchases, no disregards can be applied. *Ibid.*; see also Initial Decision at 2-3. Therefore, due to Petitioner’s failure to pay back his WFNJ/GA benefits, I find that the entire UIB lump sum payment of



\$16,151 must be used to calculate his WFNJ/GA benefits ineligibility period. See N.J.A.C. 10:90-3.18(e) (2). Consequently, 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 \$16,151 is divided by \$428, which is 200% of the WFNJ payment level for an assistance unit of one such as Petitioner, resulting in a WFNJ benefits ineligibility period of 37.75 months, rounded up to 38 months, beginning July 1, 2021. See N.J.A.C. 10:90-3.18(d)(1); see also DFD IT 19-21 at 4. The Initial Decision and the Agency's determination are modified to reflect these findings. See Initial Decision at 2-4; see also Exhibit R-2. Further, in accordance with N.J.A.C. 10:90-6.2(a), I find that Petitioner is ineligible for EA benefits because he is neither a WFNJ, nor an SSI benefits recipient. See Initial Decision at 1-2. The Initial Decision is also modified to reflect the correct legal basis for the termination of Petitioner's EA benefits. *Id.* at 4; see also N.J.A.C. 10:90-6.2(a).

By way of comment, I note that any WFNJ benefits, including EA benefits, that were in fact received by Petitioner during the above imposed 38 month period of ineligibility, beginning July 1, 2021, constitute an overpayment for which the Agency may seek recovery. See N.J.A.C. 10:90-3.21(a), (1).

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

Officially approved final version. November 10, 2022

Natasha Johnson
Assistant Commissioner

