



State of New Jersey

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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 **08939-24 L.M.**

AGENCY DKT. NO. **C823434007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she was no longer a Work First New Jersey ("WFNJ") benefits recipient, nor a Supplemental Security Income ("SSI") benefits recipient, and therefore was ineligible for continued EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 21, 2024, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow the Agency the opportunity to provide a copy of the notice terminating Petitioner's WFNJ/Temporary Assistance to Needy Families ("TANF") benefits. On December 5, 2024, the Agency informed the ALJ that they could not produce a copy of that termination notice and the record was closed. On December 5, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Assistant Commissioner 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 MODIFY the ALJ's Initial Decision and REVERSE the Agency's determination, based on the discussion below.

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 ("DFDI") 09-1-4.

Pursuant to N.J.A.C. 10:90-3.1(c), once initial financial eligibility for WFNJ/TANF is found to exist, financial eligibility continues to exist so long as the total countable income of the WFNJ/TANF, AU (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned and unearned 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 assistance unit of one, the maximum allowable benefit level is \$214. *Ibid.*; see also DFD Informational Transmittal ("DFD IT") 19-21.

Pursuant to N.J.A.C. 10:90-9.1(b), an Agency must provide both adequate and timely notice advising of a termination, denial or suspension of welfare benefits. Adequate notice is a written notice outlining the intended action, the reasons for the action, and citing to the specific regulation(s) supporting the intended action. N.J.A.C. 10:90-9.1(a). Timely notice is defined as "a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action."



N.J.A.C. 10:90-9.1(b)(1). With respect to terminations of EA benefits, 30-days advance notice of the termination must be given. See N.J.S.A. 44:10-51(e) and DFDI 24-03-01 at 3.

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

Here, the record reflects that the Agency terminated Petitioner's WFNJ/TANF benefits, effective June 1, 2024, due to the alleged receipt of child support income over the maximum allowable benefit level during February, March and April, 2024. See Initial Decision at 3; see also Exhibits R-1, R-3. As a result of the termination of Petitioner's WFNJ/TANF benefits, Petitioner was no longer eligible for EA benefits and by notice dated May 21, 2024, the Agency terminated Petitioner's EA benefits effective May 31, 2024. See Initial Decision at 3; see also Exhibit R-2 and N.J.A.C. 10:90-6.2(a). Petitioner testified that she has not received any child support payments since June 2024, as the child's father is presently incarcerated. See Initial Decision at 3; see also Exhibit R-3.

At the hearing, the Agency was unable to present a copy of the notice terminating Petitioner's WFNJ/TANF benefits, from which Petitioner could appeal such termination. See Exhibit R-8. As the termination of Petitioner's EA benefits was the direct result of the termination of Petitioner's WFNJ/TANF benefits, the ALJ found that the Agency had failed to meet its burden to establish, by a preponderance of the credible evidence, that it had complied with the notice requirements of N.J.A.C. 10:90-9.3(a), and therefore, the termination of Petitioner's EA benefits, on the basis she was no longer a WFNJ/TANF benefits recipient, was improper and must be reversed. See Initial Decision at 4-5; see also N.J.A.C. 10:90-9.1(a), (b), -9.3(b). I agree.

However, with respect to the ALJ's assertion that Petitioner was not provided with continued assistance in the form of EA benefits while awaiting her fair hearing, see Initial Decision at 4, the record provided in this matter shows that the Agency has, in fact, continued to pay Petitioner's EA placement. See Exhibit R-4. I further take official notice of the fact that the records of this office show that continued EA benefits have been provided to the present. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). The Initial Decision is modified to reflect this finding.

By way of comment, while the issue of the correctness of the Agency's termination of Petitioner's WFNJ/TANF benefits was not a transmitted issue, based on Petitioner's claim that she has had a change in circumstance because the father of her child is incarcerated and she has not received any further child support payments, the Agency should reevaluate Petitioner for WFNJ/TANF benefits, if it has not already done so, and provide proper notice, as appropriate. See N.J.A.C. 10:90-9.1.

By way of further comment, the Agency is reminded that all terminations of EA benefits require 30-days advance notice, not 10-days as reflected in the adverse action notice in this matter, Exhibit R-2. See N.J.S.A. 44:10-51(e) and DFDI 24-03-01 at 3.

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

Officially approved final version. January 03, 2025

Natasha Johnson
Assistant Commissioner

