



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
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 12663-23 M.F.

AGENCY DKT. NO. S443538014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)

The record in this matter reflects that Petitioner requested a fair hearing on or about November 1, 2023, due to the Respondent Agency's termination of her Emergency Assistance ("EA") benefits, on the basis that Petitioner had sufficient income to pay her shelter expenses. The record in this matter further shows that the Agency thereafter rescinded the EA termination, effective December 1, 2023. As a result of the rescission, Petitioner agreed to withdraw her fair hearing request, and on February 15, 2024, Petitioner signed a "Withdrawal of Appeal and Fair Hearing Request/Settlement," which was also signed by an Agency representative on February 8, 2024. Despite the fact that a withdrawal had been executed, the matter inappropriately remained on the Office of Administrative Law's docket, such that on February 20, 2025, the Honorable William J. Courtney, Administrative Law Judge ("ALJ") at the Office of Administrative Law ("OAL") held a telephonic plenary hearing, took testimony, and admitted documents. The ALJ held the hearing on an issue which had not been properly transmitted to the ALJ for hearing, namely that Petitioner challenged the Agency's calculation of her contribution of thirty percent of her total household income toward payment of her Emergency Assistance ("EA") shelter placement pursuant to N.J.A.C. 10:90-6.5. The record contains no recent adverse action taken by the Agency pertaining to Petitioner's EA benefits, nor was any further fair hearing request made by Petitioner regarding her EA benefits, following her execution of the withdrawal on February 15, 2024. Nonetheless, on May 1, 2025, the ALJ issued an Initial Decision on the non-transmitted issue of Petitioner's regulatory contribution of thirty percent.

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 DISMISS the matter, based on the discussion below.

Pursuant to N.J.A.C. 10:90-9.3(a), an applicant/recipient may request a fair hearing when he/she is adversely affected by an Agency action. Agency actions which adversely affect an applicant or recipient include any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits. See N.J.A.C. 10:90-9.3(b) ("[c]ounty or municipal agency actions which adversely affect an applicant or recipient include any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits, adjustment in the level of benefits or work requirements, or designation of a protective payee.").

With respect to DFD fair hearings, the Bureau of Administrative Review and Appeals ("BARA") is delegated the responsibility to determine if a matter is a contested case, and the issues to be heard during a fair hearing. See N.J.A.C. 10:90-9.9(e).



Further, pursuant to N.J.A.C. 1:1-3.2(a), "The [OAL] shall acquire jurisdiction over a matter only after it has been determined to be a contested case by an agency head and has been filed with the [OAL] or as otherwise authorized by law[.]" Further, "The [OAL] shall not receive, hear or consider any pleadings, motion papers, or documents of any kind relating to any matter until it has acquired jurisdiction over that matter[.]" Ibid.

Finally, the execution of a Stipulation of Settlement and Withdrawal terminates a contested case. See N.J.A.C. 1:10-19.1(c).

Here, as noted above, Petitioner had previously requested a fair hearing after the Agency had terminated Petitioner's EA benefits. See Exhibit R-2. The Agency rescinded the termination and Petitioner thereafter executed a Withdrawal of Appeal and Fair Hearing Request/Settlement Form ("Withdrawal"), dated February 15, 2024, which was signed by an Agency representative on February 8, 2024. Ibid. While the Agency states in the case summary submitted in this matter, that the Withdrawal was purportedly submitted to DFD/BARA and OAL on February 20, 2024, I take official notice of the fact that the records of this office do not contain the executed Withdrawal form or any notation that said Withdrawal was received by DFD/BARA, which would have closed the case in DFD/BARA's records. See N.J.A.C. 1:1-15.2(a), N.J.R.E. 201(b)(4) and N.J.A.C. 1:10-19.1(c). It is logical to presume, since the case remained on OAL's docket, that OAL also did not receive the executed Withdrawal, which would have closed the case out at the OAL, as the contested case terminated upon the execution of the Withdrawal. See N.J.A.C. 1:10-19.1(c). There is no indication in the record that Petitioner asked for the matter to be re-opened, nor is there any indication that Petitioner later requested a new fair hearing specifically with respect to the regulatory contribution amount. See N.J.A.C. 1:1-19.2(c). Nonetheless, and with no explanation as to why, a hearing went forward before the ALJ on a non-transmitted issue, for which OAL had no jurisdiction. See N.J.A.C. 1:1-3.2(a). Rather, it appears that the issue of the regulatory contribution was originally raised in February, 2025 emails between Petitioner and the Agency, and then with the ALJ on the first scheduled day of the hearing. See Exhibit R-2. It is unclear from the record if either party in this case advised the ALJ, or even made the ALJ aware, of the Withdrawal of the transmitted issue which terminated the present case, as the ALJ makes no reference to the Withdrawal in his Initial Decision, and continued with the hearing, contrary to the applicable regulatory authority. See N.J.A.C. 1:10-19.1(c).

Based on the foregoing and the record presented in this case, I find that, in accordance with N.J.A.C. 10:90-9.3(b), there is no actionable adverse action in the present matter, nor was the issue that the ALJ decided properly transmitted to the OAL for determination as a contested case, and as such, the OAL lacked jurisdiction to hear this matter. See N.J.A.C. 10:90-9.3(b), -9.9(e) and N.J.A.C. 1:1-3.2(a). It appears that the previously transmitted issue and docketed case had not been closed, either at DFD/BARA or at OAL. Moreover, it seems that neither party had advised the ALJ of the Withdrawal, such that the ALJ unknowingly went forward on a non-transmitted case, over which the OAL had no jurisdiction to hear, and the issue should have been dismissed. Should the ALJ have known that the case was not properly before him, he undoubtedly would have properly dismissed the case, and as such, the Initial Decision is hereby modified to reflect this finding, as well as the other findings above.

By way of comment, Petitioner and the Agency are encouraged to continue discussions with respect to a reevaluation of the applicable expenses that may be taken into consideration when calculating Petitioner's thirty percent contribution toward her shelter expenses, in light of N.J.A.C. 10:90-6.5(a)(1)(i). If the parties are unable to agree on the applicable expenses which could reduce Petitioner's regulatory contribution, Petitioner is without prejudice to request a fair hearing on this issue. Further, the Agency is to consider such expenses, as appropriate, in the calculation of Petitioner's Supplemental Nutrition Assistance Program ("SNAP") benefits allotment.

Accordingly, the Initial Decision in this matter is hereby MODIFIED, and as the issue had not been transmitted to OAL for determination, and in light of the Withdrawal of Fair Hearing and Settlement, executed by both parties in this matter in February, 2024, no contested case exists, I deem the matter moot and it is therefore DISMISSED.

Officially approved final version. June 10, 2025

Natasha Johnson
Assistant Commissioner

