



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 3925-15 J.B.

AGENCY DKT. NO. GA559476 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's refusal to determine his eligibility for Work First New Jersey/General Assistance ("WFNJ/GA") benefits, and by extension, Emergency Assistance ("EA") in the form of back rent. A review of the procedural history and background of this case is necessary.

Petitioner originally appealed the Agency's denial of WFNJ/GA benefits and a plenary hearing was held before the Honorable Sandra A. Robinson, Administrative Law Judge, on October 29, 2014. See Exhibit R-3. At the hearing, the Agency maintained that Petitioner needed to submit bank statements for both May and June 2014 in order to determine WFNJ/GA eligibility, which Petitioner had not done. See *id.* at 3, para. 6-7. On November 17, 2014, Judge Robinson affirmed the Agency's denial of Petitioner's WFNJ/GA application for failure to provide the required bank statements. See *id.* at 5. It is important to note, and relevant to the decision herein, that at the hearing before Judge Robinson in late October 2014, the Agency submitted no documentation into evidence to support its actions in the matter.

In Exceptions to the Initial Decision, Petitioner maintained that he had previously provided the requisite bank statements to the Agency. See Initial Decision at 4.

Thereafter, on January 7, 2015, the Division of Family of Family Development ("DFD") issued a Final Agency Decision ("FAD") remanding the matter to the Agency. See Exhibit R-4. The FAD directed Petitioner to provide the May and June 2014 bank statements, and any other relevant documents, within 30 days to the Agency, after which the Agency was to make a determination as to Petitioner's eligibility for WFNJ/GA benefits. See *id.* at 3.

Petitioner again provided the bank statements to the Agency on January 30, 2015. See Initial Decision at 5. The Agency, however, told Petitioner that he would need to submit a new application for both WFNJ/GA and EA benefits. *Ibid.* Petitioner was reluctant to submit one and no further action was taken by the Agency. *Ibid.* Petitioner then requested a new fair hearing due to the delayed disposition. *Ibid.*

A plenary hearing was scheduled before the Honorable Barry E. Moscovitz, Administrative Law Judge ("ALJ"), for April 16, 2015. See *id.* at 6. Due to various issues, the hearing was then adjourned to April 30, 2015, and Petitioner was directed to provide copies of the bank statements and any other relevant documentation to the Agency prior to the hearing so that the Agency could make an eligibility determination as previously ordered by DFD. *Ibid.*; see also Exhibit R-4. However, Petitioner did not submit the documentation, again asserting that he had previously submitted same, and therefore, the Agency again took no further action and continued to assert Petitioner needed to submit a new application. See Initial Decision at 6. The April 30, 2015, hearing date was again adjourned until May 6, 2015. *Ibid.* The Agency was provided with the bank statements, yet did not make a determination during the interim between the two hearing dates. See *id.* at 6-7.

On May 6, 2015, the ALJ held a plenary hearing, took testimony and admitted documents into evidence. On May 28, 2015, the ALJ issued his Initial Decision, remanding the matter to the Agency for it to determine whether, as a threshold issue, Petitioner was eligible for WFNJ/GA benefits on May 6, 2014, the date which he originally applied. See *id.* at 9.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and having conducted an independent review of the record in this matter, I hereby REJECT the ALJ's Initial Decision and AFFIRM the Agency's determination to deny Petitioner WFNJ/GA and EA benefits, as discussed below.

At the May 6, 2015, hearing before the ALJ, the Agency submitted documentation which was entered into evidence, which is pertinent to this matter. Specifically, the Agency provided copies of adverse action notices which had not been previously submitted at the time of the first plenary hearing before Judge Robinson. A review of those adverse action notices reveals that the Agency found Petitioner ineligible for both WFNJ/GA and EA benefits on May 21, 2014, due to excess income and a failure to plan. See Exhibit R-1. The May 21, 2014, Adverse Action notice states, "Applicant is self-employed per 2013 tax returns. Total income per statement is \$9711.00 or \$809 per month. Applicant is currently five (5) months past due with \$1500 rent per month." *Ibid.*; see also Exhibit P-1. I note that there had been no reference at all in the prior hearing's record, that Petitioner was self-employed or that a review of Petitioner's income tax returns had been made. A second adverse action

notice, dated July 9, 2014, then shows that Petitioner's WFNJ/GA application was "pending," and his request for EA benefits was denied because his rent exceeded the Essex County Fair Market Rent ("FMR"). See Exhibit R-2.

An applicant/recipient, as a condition of eligibility for WFNJ/GA benefits, shall, among other things, provide all necessary documentation. See N.J.A.C. 10:90-2.2(a)(5). When evaluating a self-employed individual's income for WFNJ/GA eligibility, the applicant is "required to submit evidence of business receipts and expenditures as the basis for a sound estimate of earned income." See N.J.A.C. 10:90-3.9(d)(4). Additionally, N.J.A.C. 10:90-3.9(d)(5)(i) states, "[WFNJ/GA] [a]ssistance shall not be provided to subsidize a failing business."

With respect to EA benefits, "the Agency may authorize [Temporary Rental Assistance] when the total cost of housing inclusive of basic utilities is equal to or below the current [FMR]." See N.J.A.C. 10:90-6.3(a)(7).

Having now reviewed the Agency's adverse action notices, as well as the incomplete bank statements provided by Petitioner for May and June 2014, I concur with the Agency that its denial for WFNJ/GA, and by extension EA, was proper due to excess income. See N.J.A.C. 10:90-3.4(a) and -3.5. Furthermore, I agree with the Agency that Petitioner's rent is above FMR for Essex County, and therefore, retroactive rent for Petitioner's apartment would not be permitted. See Exhibit R-2. As such, based upon the complete record in this matter, I find that no further evaluation is necessary by the Agency in regards to Petitioner's May 2014, application for WFNJ/GA and EA benefits.

By way of comment, Petitioner is free to file a new application for WFNJ/GA and EA benefits and the Agency, if such is filed by Petitioner, shall, without prejudice evaluate Petitioner's eligibility for WFNJ/GA and EA benefits as of the new date of application.

By way of further comment, I note that Petitioner had previously asserted that he was imminently homeless due to the amount of back rent owed on his apartment. Yet there has been no indication or proof that Petitioner's landlord has instituted any eviction proceeding against him during the year which this matter has been pending, thus raising into question if Petitioner is, in fact, imminently homeless.

Based upon the foregoing, the Initial Decision in this matter is hereby REJECTED and the Agency's determination to deny Petitioner WFNJ/GA and EA benefits is AFFIRMED.

JUL - 8 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director