



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 04873-21 S.B.

AGENCY DKT. NO. C123527002 (BERGEN COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits, contending that she failed to provide income verification documentation required to determine her continued WFNJ/TANF benefit eligibility, and terminated her EA benefits, contending that she had violated motel/shelter rules and that she was no longer a WFNJ benefits recipient, nor a Supplemental Security Income ("SSI") recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. An emergent hearing was initially scheduled for June 11, 2021, but was adjourned by Petitioner in order to secure counsel, and it was agreed that the hearing be downgraded to a non-emergent hearing. On June 29, July 7, and July 20, 2021, the Honorable Matthew G. Miller, Administrative Law Judge ("ALJ"), held the plenary hearing, took testimony, and admitted documents. The record closed on July 20, 2021. On August 4, 2021, the ALJ issued an Initial Decision, affirming the Agency's termination of Petitioner's EA benefits and reversing the Agency's termination of Petitioner's WFNJ/TANF benefits.

Exceptions to the Initial Decision were filed by the Agency on August 13, 2021. A reply to the Agency's Exceptions was filed by Legal Services, on behalf of Petitioner, on August 16, 2021.

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 AFFIRM in part, and REVERSE in part, the Agency's determinations, based on the discussion below.

As a condition of eligibility for WFNJ benefits, the applicant/recipient shall, subject to good cause exceptions, be required to provide all necessary documentation. See N.J.A.C. 10:90-2.2(a) (5). Additionally, all applicants and recipients are in all instances the primary source of information about themselves and their families, needed to determine eligibility for WFNJ benefits. See N.J.A.C. 10:90-1.6(a). However, the Agency has the responsibility to secure verifications from secondary sources as necessary in order to determine eligibility. N.J.A.C. 10:90-1.6(a).



Pursuant to N.J.A.C. 10:90-3.11(e)(3)(iii), "the County/municipal agencies shall act on all [financial] changes [in circumstances] that are received from sources other than the assistance unit when such information is considered verified upon receipt. Verified upon receipt means that the information received is not questionable. Such information includes, but is not limited to, the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) computer matches, [and] letters from employers verifying wages[.]"

First, the record in this matter reflects that Petitioner had moved from Bergen County to Passaic County on July 15, 2021, and as such, the ALJ found that she was no longer eligible for EA benefits in Bergen County. See Initial Decision at 5. The ALJ also found, and Petitioner concurred, that as of July 15, 2021, Petitioner was not owed any EA benefits from Bergen County. *Ibid.* On those bases, the ALJ upheld the Agency's termination of Petitioner's EA benefits. *Id.* at 8; see also Exhibit R-1 at 10. I agree.

Next, I find that the record is devoid of any indication that Petitioner's WFNJ/TANF benefits were terminated subject to a redetermination application process, or subject to a recertification of Supplemental Nutrition Assistance Program ("SNAP") benefits, and as such, I find that the ALJ's reliance on the redetermination WFNJ regulation found at N.J.A.C. 10:90-3.22, the WFNJ application regulations found at N.J.A.C. 10:90-1.2, -1.5, -1.6, and the SNAP certification regulation found at N.J.A.C. 10:87-9.5, is misplaced. See Initial Decision at 8-11. Rather, I find that the issue presented is the termination of Petitioner's WFNJ/TANF benefits for failure to provide income verification, and as such, I have cited to the applicable regulations above. See Exhibit P-2. Therefore, while I agree with the ALJ's ultimate conclusion in this matter, I disagree with ALJ's legal analysis, as discussed below.

Here, based on an independent review of the record, I find that the Agency had received information from the shelter social worker advising that Petitioner was working and had earned income, and as a result, the Agency claimed to have requested employment verification documentation from Petitioner in order to determine her continued eligibility for WFNJ/TANF benefits. See Initial Decision at 3-5; see also Exhibits P-2, R-1 at 26-27, 29, and N.J.A.C. 10:90-2.2(a)(5), -3.11(e)(3)(iii). However, the ALJ found, and I concur, that the verification notices that were sent to Petitioner were SNAP verification notices and only advised that her SNAP benefits, not her WFNJ/TANF benefits, would be terminated if the requested documentation was not received by a date certain. See Initial Decision at 11-14; see also Exhibit R-1 at 26-27, 29-30. The ALJ also found that Petitioner had credibly testified that she had not received any notification requesting documents related to her WFNJ/TANF benefits, and that it was not until she had received the Agency's April 19, 2021, notice terminating her WFNJ/TANF benefits, for failure to provide income verification, that she found out that there was an issue with her WFNJ/TANF benefits eligibility. See Initial Decision at 12. Further, the ALJ found that the Agency had not provided any testimony or evidence to substantiate its claim that Petitioner had income that required verification, but rather, merely relied on hearsay evidence from the shelter social worker, and an unsigned employment letter from Cajun shipping whose content had been disputed by Petitioner. *Id.* at 11-14; see also Exhibit R-1 at 28. Also, I find that the letter from Cajun shipping is questionable, and as such, Petitioner's employment should have been verified by secondary sources available to the Agency. *Ibid.*; see also N.J.A.C. 10:90-1.6(a), -3.11(e)(3)(iii). Additionally, the ALJ found Petitioner credible when she testified to, and certified, that she was not currently working and had no earned or unearned income for the period of November 2020, to the present. See Initial Decision at 6-7, 12; see also Exhibit P-1. Moreover, the ALJ found that the Agency's representative had little or no substantive knowledge of Petitioner's WFNJ/TANF benefits case, and had failed to provide any credible, competent evidence to show that Petitioner had been earning more than a nominal amount of income during the relevant time period, such that a termination of her WFNJ/TANF benefits was warranted. See Initial Decision at 7, 11-14. Finally, while I agree that Petitioner was not properly noticed of the verifications required by the Agency to determine her continued WFNJ/TANF benefits eligibility, I find that she was properly given the required ten-day notice of the termination of her WFNJ/TANF benefits in accordance with N.J.A.C. 10:90-9.1(a), (b). See Initial Decision at Exhibit R-1 at 13; see also Exhibit P-2. Based on the foregoing, I concur with the ALJ's conclusion that the Agency's termination of Petitioner's WFNJ/TANF benefits was improper and must be reversed. See Initial Decision at 14; see also Exhibit P-2. Accordingly, the Agency is directed



to provide Petitioner with WFNJ/TANF benefits retroactive to May 1, 2021, the effective date of the termination of said benefits, until such time as Petitioner left Bergen County. See Exhibit P-2. The Initial Decision is modified to reflect these findings.

By way of comment, the record reflects that Petitioner is employable, but she claims that she is unable to seek work because she lacks childcare. See Initial Decision at 6. Petitioner is advised that once she obtains employment, she may contact the Agency in her county to apply for childcare services. See N.J.A.C. 10:90-5.2.

By way of further comment, I note again for the benefit of Petitioner's counsel that replies to Exceptions or Cross-Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2.

Also by way of comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency ("DCPP"), a copy of the Initial and Final Agency Decisions shall be forwarded to DCPP. See Initial Decision at 2-3.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED in part, and REVERSED in part, as outlined above.

Officially approved final version.

SEP 28 2021

Natasha Johnson
Assistant Commissioner

