



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
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 06220-21 S.C.

AGENCY DKT. NO. C189290016 (PASSAIC COUNTY BOARD 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 her total monthly income exceeds the allowable eligibility benefit level for receipt of those benefits, and terminated Petitioner's EA benefits because she is not a WFNJ or Supplemental Security Income ("SSI") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for June 14, 2021, at which time the parties had reached a preliminary agreement, wherein the Agency agreed to reinstate Petitioner's WFNJ/TANF and EA benefits, and Petitioner withdrew her appeal. However, the Agency did not reinstate Petitioner's WFNJ/TANF benefits, and consequently did not reinstate her EA benefits, contending that income disregards could not be applied to reduce her income, and as such, she was ineligible for WFNJ/TANF because her total monthly income exceeded the allowable eligibility benefit level. On July 21, 2021, Petitioner filed a Request to Reopen the June 14, 2021, hearing and on August 16, 2021, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, and admitted documents. No testimony was taken as the parties had agreed that the only issue before the court was one of regulatory interpretation and that the relevant facts were not in dispute. The record was held open to allow the parties the opportunity to submit legal briefs, and then closed on August 20, 2021. On August 31, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on September 3, 2021.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

N.J.A.C. 10:90-3.8(c), states that "[i]n computing the cash assistance benefit for recipients who lose their employment through no fault of their own and subsequently become reemployed, the 100 percent disregard and the 75 percent disregard may be applied again only once every 12 months; otherwise the 50 percent disregard shall be applied for each continuous month of employment."

Here, all the facts in the record, and the applicable regulatory authorities, have been stipulated to by the parties, and are incorporated herein, by reference. See Initial Decision at 2-4. The only issue to be determined was the regulatory interpretation of N.J.A.C. 10:90-3.8(c). *Id.* at 2. More specifically, whether the restriction period set forth in N.J.A.C. 10:90-3.8(c), limiting the application of the 100 percent and 75 percent disregards to once every 12 months, begins to run from the time of a prior employment when the 100 percent disregard had first been applied, or from the last day when one



F,16,N,C189290016X,0027,000014424815

BARA003

had received any income disregard from that prior employment, and whether in Petitioner's case, said 12-month period began to run in September of 2019, (when she received her first income disregard) or in September of 2020, (when her first employment ended). Id. at 2-4.

Based on the plain language of the applicable regulatory authority, the ALJ determined it was clear that the 12-month restrictive period begins to run from the time that the first 100 percent disregard had been applied, and not from the time that the last disregard had been applied. Id. at 4-5. As such, the ALJ found that Petitioner's 12-month restrictive period began to run in September 2019, when she received her first 100 percent disregard, and not March 2020, when her employment ended and she had received her last 75 percent disregard. Ibid. Specifically, the ALJ found that, at the time of Petitioner's reemployment in June 2021, 21 months had passed since the commencement of Petitioner's prior employment and 100 percent disregard, and 15 months had passed since her last 75 percent disregard. Ibid. Accordingly, the ALJ concluded that Petitioner was eligible for a 100 percent income disregard of her earned income for the month of July 2021, the first full month after the start of her current employment, a 75 percent disregard for six months thereafter, and a 50 percent disregard for each month thereafter, provided her income continues to be under the maximum benefit level allowable for WFNJ/TANF benefits eligibility. Id. at 5; see also N.J.A.C. 10:90-3.8(a). Further, because Petitioner was found eligible for WFNJ/TANF benefits, the ALJ also found Petitioner eligible for EA benefits. See Initial Decision at 5; see also N.J.A.C. 10:90-6.2(a). Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's WFNJ/TANF and EA benefits was improper and must be reversed. See Initial Decision at 6; see also Exhibit R-1, and WFNJ/TANF Termination Letter dated March 31, 2021. I agree.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

SEP 30 2021

Natasha Johnson
Assistant Commissioner

