



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 04646-21 T.N.

AGENCY DKT. NO. C160963015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner challenges the correctness of the Respondent Agency's claim for recovery of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits. The Agency asserts that the assistance unit ("AU") received WFNJ/TANF and EA benefits to which it was not entitled, resulting in an overissuance of benefits which must be repaid. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On July 20, 2021, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open until August 3, 2021, for the submission of closing arguments, and then closed. On August 12, 2021, the ALJ issued an Initial Decision, modifying the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on August 16, 2021.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and I hereby MODIFY the Initial Decision, and MODIFY the Agency determination, based on the discussion below.

Under the WFNJ regulations, a recipient is required to satisfy any repayment obligation pursuant to state or Federal law governing public assistance. See N.J.A.C. 10:90-2.2(a)(7). An overpayment of WFNJ benefits, including Emergency Assistance benefits, is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction[.]" See N.J.A.C. 10:90-3.21(a)(1).

Here, the record reflects that on March 5, 2020, Petitioner was approved for WFNJ/TANF benefits. See Initial Decision at 2; see also Exhibit P-2. Thereafter, on September 14, 2020, Petitioner was approved for EA benefits, in the form of back rent (\$6,800) and utilities (\$1,637.62), for a total of \$8,437.62. See Initial Decision at 2; see also Exhibits P-4, R-5 at 5, and N.J.A.C. 10:90-6.1. On January 21, 2021, the Agency determined that Petitioner experienced an emergency beyond her control, and approved a hardship extension for Petitioner to receive continued EA benefits, effective February 1, 2021, since Petitioner had previously exhausted her 12-month lifetime limit of EA benefits. See Initial Decision at 2; see also Exhibit P-5, and N.J.A.C. 10:90-6.1, -6.4.



On January 24, 2021, Petitioner received Unemployment Insurance Benefits (“UIB”) in the amount of \$4,600. See Initial Decision at 3; see also Exhibit P-6. Notably, Petitioner had first applied for UIB on September 12, 2020. Ibid. Thereafter, by notice dated February 5, 2021, the Agency terminated Petitioner’s WFNJ/TANF benefits, as it determined that due to the receipt of UIB in January, 2021, Petitioner’s AU exceeded the income eligibility level to receive WFNJ/TANF benefits. See Initial Decision at 3; see also Exhibit P-7, and N.J.A.C. 10:90-3.3, -3.9. On that same date, the Agency advised Petitioner that her EA benefits would be terminated, effective April 1, 2021, as she was no longer a WFNJ/TANF benefits recipient. See Initial Decision at 3; see also Exhibit P-7, and N.J.A.C. 10:90-6.2. On May 3, 2021, the Agency sent Petitioner several Notices to Repay Overissued WFNJ benefits in the amount of \$2,225, for the period of September, 2020, through April, 2021, and EA benefits in the amount of \$10,304, for the period of September, 2020, through March, 2021. See Initial Decision at 3; see also Exhibits P-8, R-6.

The ALJ in this matter makes several findings, including, first, that the UIB Petitioner had received, is not subject to repayment, because those funds were earmarked, and used by Petitioner in the same manner as if she had received income from employment. See Initial Decision at 8; see also N.J.A.C. 10:90-3.18(c). I respectfully disagree. N.J.A.C. 10:90-3.18(c) provides specific examples of earmarked income that is not subject to repayment, including, “money for back medical bills resulting from accidents or injury, funeral or burial costs, or the replacement or repair of resources.” UIB is not listed in above-cited regulation. Moreover, pursuant to regulatory authority, the UIB received by Petitioner is considered unearned lump sum income, that must be used to repay assistance granted in accordance with the Agreement to Repay that Petitioner had signed on February 11, 2020. See Initial Decision at 2, 8; see also Exhibit P-1, and N.J.A.C. 10:90-3.9(e), -3.18(a)(1), -3.18(c). Accordingly, I find that the UIB received by Petitioner, is subject to repayment, as those funds are similar to wages earned by Petitioner, and the UIB funds that replaced were not earmarked for a specific purpose, but were subject to Petitioner’s unfettered control. See Agency’s Exceptions, dated August 16, 2021. The Initial Decision is modified on this basis.

Next, while I find that the UIB received by Petitioner is subject to repayment, the ALJ found, and I agree, that Petitioner was, in fact, entitled to WFNJ/TANF and EA benefits, for the period she received UIB benefits, specifically, September, 2019, through January, 2021, as the Agency did not contest Petitioner’s eligibility for WFNJ/TANF and EA benefits, and did concede that Petitioner was eligible for those benefits for that same period of time. See Initial Decision at 5, 8; see also Exhibit P-6.

Finally, the ALJ found that the Agency had met its burden in establishing, by a preponderance of the credible evidence, that Petitioner received an overissuance of WFNJ/TANF benefits (\$175) and EA benefits (\$1,472), for a total amount of \$1,647, for the period beginning March, 2021, through April, 2021, which must be repaid. See Initial Decision at 9; see also Exhibit R-6 at 7-18, 25-30, and N.J.A.C. 10:90-3.21(a)(1). While I agree that Petitioner is responsible to repay the overissuance of WFNJ/TANF and EA benefits received for the period beginning March, 2021, through April, 2021, I find that Petitioner is also responsible to repay the overissuance of WFNJ/TANF benefits issued in February, 2021, as the ALJ did not include the February, 2021, WFNJ/TANF overissuance (\$350), in the final amount in which the Agency may recoup from Petitioner. See Initial Decision at 9; see also Exhibit R-6 at 2. Accordingly, based upon an independent review of the record, I find that the total amount of overissued WFNJ/TANF and EA benefits, that the Agency may recover from Petitioner totals \$1,997 (\$1,647 + \$350). The Initial Decision is modified on this basis.

The ALJ further ordered that the Agency reduce the overpayment amount by \$500, and “that Petitioner and the Agency shall collaborate on a payment plan.” See Initial Decision at 10. While I agree that Petitioner is responsible to repay the overissuance of WFNJ/TANF and EA benefits, I find that pursuant to regulatory authority, it is within the discretion of the Agency, with the consent and approval of DFD, as to whether it may compromise and settle a repayment of a claim overissued benefits. See N.J.A.C. 10:90-7.8(e) (emphasis added). It also lies within the Agency’s discretion as to whether it



may deduct \$500 from the proceeds of a claim, with primary consideration given to whether the decrease in the balance of funds owed to the Agency by Petitioner, will promote the goal of self-sufficiency. Ibid. Therefore, I am ordering Petitioner to contact the Agency for the purpose of requesting that the Agency compromise the \$1,997 overpayment claim. See Initial Decision at 10; see also N.J.A.C. 10:90-7.8(e). The Agency shall then consider whether Petitioner's request is appropriate under the circumstances, and whether a decrease in the balance owed will promote the goal of self-sufficiency. Ibid. The Initial Decision is also modified on this basis.

I ORDER and direct the Agency to proceed to recoup the overissuance.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency determination is MODIFIED, as outlined above.

Officially approved final version.

NOV 23 2021

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Natasha Johnson  
Assistant Commissioner

