



State of New Jersey

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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 **10611-24 J.H.**

AGENCY DKT. NO. **C088088003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioners appeal from the Respondent Agency's denial of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and the termination of immediate need assistance housing. Because Petitioners appealed, the matters were transmitted to the Office of Administrative Law for a hearing. Telephonic plenary hearings were originally scheduled for August 8, 2024, but adjourned due to the unforeseen closing of the Agency's offices that day. The matters were rescheduled for August 13, 2024, at which time the Honorable Rebecca C. Lafferty, Administrative Law Judge ("ALJ") entered an Order of Consolidation, as both of Petitioners had filed separate fair hearing requests. On August 14, 2024, the ALJ held the plenary hearing on the consolidate matter, took testimony, and admitted documents. On August 14, 2024, the ALJ issued an Initial Decision, affirming the Agency's denial of WFNJ/TANF benefits, and also affirming a denial of Emergency Assistance ("EA") benefits, based on WFNJ ineligibility.

Exceptions to the Initial Decision were received from Petitioner L.B. on August 21, 2024.

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 MODIFY the Agency's determinations, based on the discussion below.

N.J.A.C. 10:90-1.3(a) states, "All applicants for WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determined that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made." In relevant part, immediate need "means the assistance unit lacks shelter or is at imminent risk of losing shelter." See N.J.A.C. 10:90-1.3(a)(1). Of note, immediate need assistance is not EA, and the termination of immediate need assistance is not appealable.

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.

Only WFNJ benefits recipients, including those determined eligible for WFNJ benefits based upon immediate need, and Supplemental Security Income ("SSI") benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).



Here, the record shows that Petitioners applied for both WFNJ/TANF and EA benefits on December 14, 2024, on behalf of themselves and their minor child. See Initial Decision at 3; see also Exhibit R-1 at 1-10. Petitioners thereafter requested immediate need housing placement. See Initial Decision at 3.

With respect to the WFNJ/TANF application, on January 23, 2024, the Agency sent Petitioner L.B. a request for various information necessary to determine eligibility. See Exhibit R-1 at 11. While two of the items requested were able to be independently verified, the remaining two items were not provided by Petitioner L.B. and still have not been provided. See Initial Decision at 3. On June 24, 2024, the Agency denied Petitioners' December 14, 2023, WFNJ/TANF application. Ibid.; see also Exhibit R-1 at 17. The ALJ in this matter agreed that, as Petitioner L.B. had not provided the necessary documentation needed to determine WFNJ/TANF eligibility, the Agency's denial of WFNJ/TANF benefits, on that basis, and not the additional bases on the June 24, 2024, adverse action notice, was proper. See Initial Decision at 6. I agree and modify the Agency's adverse action notice to reflect this finding. See Exhibit R-1 at 17.

Additionally, the record reflects that Petitioners were provided with immediate housing need benefits while the determination on Petitioners WFNJ/TANF application was pending. See N.J.A.C. 10:90-1.3(a). I note that as immediate need housing assistance is not EA, a termination of immediate need assistance is not considered a termination of EA benefits, and is therefore, not appealable, but rather, the denial of WFNJ benefits is what is appealed. Ibid.; see also DFD Instruction ("DFDI") 19-04-01 at 3. The ALJ in this matter correctly found that, as Petitioners' WFNJ/TANF application was denied, Petitioners are ineligible for EA benefits. See Initial Decision at 6; see also N.J.A.C. 10:90-6.2(a) (only WFNJ and SSI benefits recipients are eligible for EA benefits). While I agree with the ALJ's final conclusion in that respect, the ALJ incorrectly uses the term "immediate need EA benefits," which, as stated above, is incorrect, as immediate need is not EA. See N.J.A.C. 10:90-1.3(a) and DFDI 19-04-01 at 3. As such, the ALJ's Initial Decision, as well as the Agency's adverse action notice, see Exhibit R-1 at 13, are both modified to these findings.

By way of comment, I have reviewed Petitioner L.B.'s Exceptions, and I find that they do not alter my decision in this matter. Moreover, Petitioner included documents with his Exceptions which were not introduced before the ALJ at the hearing. Pursuant to N.J.A.C. 1:1-18.4(c), I am not permitted to consider documents as evidence that were not submitted at the hearing for consideration by the ALJ.

By way of further comment, Petitioners are without prejudice to reapply for WFNJ/TANF and EA benefits, but are advised that all requested/required documentation must be provided to the Agency. See N.J.A.C. 10:90-2.2(a)(5).

Also by way of comment, the Agency shall refer Petitioners to any and all agencies and organizations that may be able to assist with their current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determinations are also MODIFIED, as outlined above.

Officially approved final version. August 27, 2024

Natasha Johnson
Assistant Commissioner

