



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
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

REMAND DECISION

OAL DKT. NO. HPW 11930-19 A.S.

AGENCY DKT. NO. C638788007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's failure to provide Petitioner with retroactive Work First New Jersey/General Assistance ("WFNJ/GA") benefits at the unemployable rate for the months of November 2018, through June 2019. The Agency failed to provide Petitioner with retroactive WFNJ/GA benefits, contending that he did not qualify for the WFNJ/GA benefits unemployable rate. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 12, 2019, the Honorable Nanci G. Stokes, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 1, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the 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, MODIFY the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

"Eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual." See N.J.A.C. 10:90-2.3(a). "At the end of an individual adult recipient's 60 cumulative months of receipt of cash assistance, the assistance unit shall no longer be eligible to receive [WFNJ] assistance." See N.J.A.C. 10:90-2.3(a)(1). However, an individual may receive additional months of cash assistance if he/she qualifies for an exemption from, or extension of, the time limit, as set forth at N.J.A.C. 10:90-2.4 and -2.5, respectively. In relevant part, a recipient is exempt from the 60-month cumulative lifetime WFNJ limit if a "physical or mental impairment, defect or injury prevents him or her from engaging in full-time employment for a period of 12 or more months on a minimum of one WFNJ/MED-1, Examination Report." See N.J.A.C. 10:90-2.4(a)(3)(i).

Pursuant to N.J.A.C. 10:90-2.9(a)(2)(x)(1), a person shall be determined to be unemployable by the Agency, when the determination is supported by a fully completed MED-1 form. Upon presentation of documentation of un-employability, applicants and recipients shall be considered deferred from the work requirement in accordance with N.J.A.C. 10:90-4.10.



For the months of November through December 2018, the benefit level for a WFNJ/GA benefits assistance unit ("AU") that consists of one unemployable individual was \$210, and from January through June, 2019, the benefit level was \$231. See N.J.A.C. 10:90-3.6(a); see also DFD Informational Transmittal ("DFDIT") No.19-12. Beginning July 1, 2019, the WFNJ/GA benefits unemployable rate is \$277. See DFDIT No. 19-21.

Here, the record reflects that Petitioner had received 58 months of WFNJ/GA benefits as of July 2019, and as such, Petitioner has exhausted his lifetime limit of WFNJ benefits. See Initial Decision at 4; see also Exhibit D-2, and N.J.A.C. 10:90-2.3(a). The ALJ found that Petitioner had provided the Agency with a valid 12-month MED-1 form for the period of October 17, 2018, through October 17, 2019. See Initial Decision at 7. Based on the foregoing, the ALJ found that Petitioner was eligible for WFNJ/GA benefits at the higher monthly unemployable rate of \$210 for the months of November and December of 2018, but had received the monthly employable rate of \$150 for those months, for a difference of \$120 owed to him. See Initial Decision at 3; see also N.J.A.C. 10:90-2.9(a)(2)(x)(1), -3.6(a). The ALJ also found that Petitioner was eligible for WFNJ/GA benefits at the monthly unemployable rate of \$231 for the months of January through June of 2019, but had received the monthly employable rate of \$154 for those six months, for a difference of \$462 owed to him. See Initial Decision at 3; see also DFDIT No. 19 12. Accordingly, the ALJ concluded that Petitioner was eligible for retroactive WFNJ/GA benefits in the total amount of \$582, and ordered the Agency to provide Petitioner with same. See Initial Decision at 8. It also appears from the record that the ALJ had determined that Petitioner was eligible for an exemption from the WFNJ benefits time limit on the basis of that same October 17, 2018, 12-month MED-1 form. Id. at 5-8; see also N.J.A.C. 10:90-2.4(a)(3)(i).

However, the ALJ's conclusions in this matter hinge on a valid MED-1 form for the period of October 17, 2018, through October 17, 2019. See Initial Decision at 3. While the ALJ states that the Agency utilized said MED-1 to approve Petitioner for an exemption from the lifetime limit in July, 2019, no such MED-1 form was submitted into evidence, by either the Agency or the Petitioner. Therefore, I find it unclear from the record whether Petitioner is, or is not, indeed eligible for the WFNJ/GA benefits unemployable rate for the aforementioned months. See N.J.A.C. 10:90-2.9(a)(2)(x)(1). Moreover, without the benefit of having the MED-1 form in the record, it is also unclear whether Petitioner is eligible for an exemption from the WFNJ/GA benefits time limit. See N.J.A.C. 10:90-2.4(a)(3)(i). Therefore, I find that Petitioner is exempt from the WFNJ/GA benefits time limit, and eligible for the WFNJ/GA benefits at the unemployable rate for the dates at issue, if, and only if, he indeed had provided the Agency with a valid 12-month MED-1 form for the period at issue, or he can provide the Agency with a 12-month MED-1 form that had been executed by his physician on October 17, 2018. Further, the Agency is advised that an individual is not required to apply for Supplemental Security Income ("SSI") benefits in order to be eligible for the WFNJ/GA benefits at the unemployable rate, or to be eligible for an exemption from the WFNJ benefits time limit, however, it is a requirement for continued WFNJ benefits eligibility itself. See N.J.A.C. 10:90-2.2(a)(3), -2.4(a)(3)(i), -2.9(a)(2)(x)(1). Based on the foregoing, the Initial Decision, as well as the Agency's determination, are modified to reflect these findings, and the matter is remanded to the Agency to reevaluate Petitioner's eligibility for an exemption from the WFNJ/GA benefits time limit and for WFNJ/GA benefits eligibility at the unemployable rate for the months of November 2018, through June 2019. See Initial Decision at 8.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's determination is MODIFIED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

Natasha Johnson
Assistant Commissioner

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