

## **DEPARTMENT OF HUMAN SERVICES**

Chris Christie Governor

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Elizabeth Connolly
Acting Commissioner

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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 10005-15 L.P.

AGENCY DKT. NO. GA588819 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of her application for Work First New Jersey/General Assistance ("WFNJ/GA") benefits for failing to provide required documentation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 30, 2015, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 7, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the Initial Decision and, having made an independent evaluation of the record, I hereby ADOPT the Initial Decision and REVERSE the Agency's determination.

As a condition of WFNJ/GA eligibility, an applicant shall provide the Agency with all necessary documentation, including contact information. See N.J.A.C. 10:90-2.2(a)(5). In addition, to qualify for WFNJ/GA, an applicant must be "income and resource eligible, including the deeming of income and resources as appropriate." See N.J.A.C. 10:90-2.2(a)(4).

The record reflects that Petitioner was last employed on February 19, 2015, after which she applied for Unemployment Insurance Benefits, which were denied on May 18, 2015. See Initial Decision at 2. On or about July 15, 2015, Petitioner applied for

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disability benefits, and her application is still pending. Ibid. On March 24, 2015, Petitioner applied to the Agency for WFNJ/GA benefits, and completed her 28-day work requirement on April 22, 2015. Ibid.

On May 5, 2015, the Agency sent a proposed denial letter to Petitioner, requesting that Petitioner provide additional information and documents, which were necessary for her WFNJ/GA benefits evaluation, to the Agency by May 15, 2015. See Initial Decision at 2. In that letter, the Agency requested a "letter of support" verifying how Petitioner has been supporting herself financially since February 2015, or a letter from the person who has been financially assisting with her personal needs, and with her monthly rent of \$1,365.00. Ibid. The Agency also asked Petitioner for a copy of her current lease. Ibid.

At the hearing, the ALJ found that, on May 13, 2015, Petitioner delivered two letters to the Agency from the Newark Housing Authority dated July 11, 2014 and March 31, 2015, both of which were captioned "Notice of Change to Lease and Contract." See Initial Decision at 3. The Agency acknowledged that these letters represent Section 8 vouchers ("vouchers"). Ibid. The ALJ further noted that Essex Newark Legal Services ("Legal Services") wrote three letters to the Agency on behalf of Petitioner, two dated June 2, 2015, and one dated June 17, 2015. Ibid. In its first letter dated June 2, 2015, Legal Services asserted that Petitioner's submission of the two vouchers was responsive to the Agency's May 5, 2015, letter because the vouchers substantiated the way that Petitioner has been supporting herself. Ibid.

In its second letter dated June 2, 2015, Legal Services argued that the Agency did not request "income verification" from Petitioner, but simply asked for a letter explaining how her rent was being paid and how her personal needs were being met. See Initial Decision at 3-4. In that letter, Legal Services also attempted to "memorialize" a phone conversation it had with the Agency, in which the Agency advised that subsequent written notification had been sent to Petitioner that specifically requested verification of her income. See Initial Decision at 4. Specifically, Legal Services "invited [the Agency] to respond if any part of the memorialized phone call set forth in the letter was inaccurate." Ibid. The ALJ noted that the Agency did not respond. Ibid. The ALJ opined that the Agency's failure to refute the accuracy of Legal Services' memorialization of the phone conversation meant that Petitioner was under no obligation to provide the Agency with verification of her income. Ibid. Based on the above, the ALJ concluded that Petitioner has provided all requested information to the Agency, and that the Agency's denial of WFNJ/GA benefits to Petitioner was improper and should be reversed. See Initial Decision at 5.

Based on the facts of this case, I agree with the ALJ's conclusion that Petitioner has provided sufficient information and documents to satisfy the Agency's request. For that reason, I find that the Agency's action in this matter was improper and must be reversed.

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By way of comment, I disagree with the ALJ's opinion that the Agency's lack of a response to Legal Services' "invitation to memorialize" their phone call resulted in the Agency's "acceptance" of the notion that Petitioner need not provide verification of her income. See Initial Decision at 4. Here, the parties are regulated by administrative law, not by civil contract law. Even under civil contract law, however, silence by one party does not constitute a binding declaration of will or the acceptance of a "contract" by that party. Thus, despite the effort by Legal Services to create a "contractual relationship" and an "acceptance by silence" by the Agency, none exists. Therefore, the Agency was under no obligation to respond to the "invitation to memorialize" made by Legal Services in its letter of June 2, 2015.

By way of further comment, this office received no copies of the documents that are referenced in the Initial Decision and none were listed as Exhibits in the Initial Decision. Consequently, this Final Agency Decision has been made based upon the representation regarding those documents as contained in the Initial Decision.

Accordingly, the ALJ's Initial Decision in this matter is hereby ADOPTED and the Agency's action is hereby REVERSED.

Signed Copy on File at DFD, BARA

SEP 2 3 2015

Natasha Johnson Director