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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 01899-18 M.I.

AGENCY DKT. NO. S471436014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") benefits. The Agency terminated Petitioner's WFNJ/GA benefits contending that he did not meet the citizenship eligibility requirements. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 22, 2018, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On April 4, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on April 13, 2018.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby REJECT the ALJ's Initial Decision, and AFFIRM the Agency's determination.

Pursuant to N.J.A.C. 10:90-2.7(b)(1), the composition of an eligible WFNJ/GA assistance unit is either a single individual(s) over 18 years of age, or a couple without dependent children. The composition of a WFNJ/Temporary Assistance for Needy Families ("WFNJ/TANF") assistance unit includes the parent and his or her related dependent children up to the age of 18. See N.J.A.C. 10:90-2.7(a)(1).

In relevant part, N.J.A.C. 10:90-2.3(a)(3)(i) states, "Eligible aliens who are single adults or couples without dependent children may receive benefits until they meet the minimum residency requirements to apply for citizenship in accordance with INS rules, which include but are not limited to: continuous residence within the United States ["U.S."], after being lawfully admitted for permanent residence, for at least three years immediately preceding the date of filing a petition for naturalization if married to a [U.S.] citizen or, if not, continuous residence within the [U.S.], after being lawfully admitted for permanent residence, for at least five years immediately preceding the date of filing a petition for naturalization." With a few exceptions, "[a]fter residency requirements for citizenship are met, aliens who have applied for citizenship shall not receive benefits for more than six months unless they attain citizenship, or pass the language and civics component [], and are awaiting a final determination delayed through no fault of their own. ..." N.J.A.C. 10:90-2.3(a)(3)(ii). However, "[a]n alien who meets



the requirements for residency and citizenship on or after August 22, 1996, but does not initiate the naturalization process shall not be eligible to receive benefits.” N.J.A.C. 10:90-2.3(a)(3)(iv).

Here, the record reflects that Petitioner is a WFNJ/GA benefits recipient who came to the U.S. in 1981 on a student visa. See Initial Decision at 2. Petitioner married a U.S. citizen in 1984, and obtained permanent resident status on or about May 20, 1997. Ibid. To date, although eligible to do so, Petitioner has not applied for U.S. citizenship. Id. at 2-3. Based on Petitioner’s failure to apply for U.S. citizenship, the Agency terminated Petitioner’s WFNJ/GA benefits. Id. at 2; see also Exhibit R-1.

However, the ALJ in this matter, citing N.J.A.C. 10:90-2.3(a)(3) and N.J.A.C. 10:90-2.10, found Petitioner exempt from the requirement to apply for U.S. citizenship, on the basis that he is the caregiver of a special needs child, and therefore eligible for WFNJ/GA benefits. See Initial Decision at 3-5. I respectfully disagree. To the contrary, I find no such caregiver exemption from the citizenship requirements set forth at N.J.A.C. 10:90-2.3(a)(3) or N.J.A.C. 10:90-2.10. Therefore, I find Petitioner ineligible for WFNJ/GA benefits on the basis that he has failed to apply for citizenship as required. Ibid. Moreover, the record reflects that Petitioner’s 14-year old disabled child resides with him, and as such, I find that Petitioner is ineligible for WFNJ/GA benefits, as those benefits are solely available to single adults and couples without dependent children. See Initial Decision at 2, 5; see also N.J.A.C. 10:90-2.7(b)(1). Accordingly, as Petitioner has a dependent child, he may be eligible for WFNJ/ TANF benefits, and is advised to apply for those benefits. See N.J.A.C. 10:90-2.7(a)(1).

Accordingly, the Initial Decision is hereby REJECTED, and the Agency’s action is AFFIRMED.

Officially approved final version.

MAY 13 2018

Natasha Johnson
Director

