
Bergen County v. P.D.
Cite as 4 *N.J.A.R.* 23

**BERGEN COUNTY BOARD
OF SOCIAL SERVICES,**

Petitioner,

v.

P.D.,

Respondent.

Decided July 11, 1983

Initial Decision

SYNOPSIS

Respondent appealed the suspension of her AFDC and Medicaid benefits based on excess income.

The administrative law judge assigned to the case determined that respondent's earned income credit had been improperly calculated since respondent had been paid on a weekly basis. A re-calculation brought respondent within the required income limits.

Accordingly, the suspension of respondent's benefits was reversed.

KLEIN, ALJ:

Respondent is appealing the suspension of her grant under the Aid to Families with Dependent Children (AFDC) program and Medicaid for one month effective May 1, 1983, due to excess income in the month of March.

After receiving notice issued April 7, 1983 that effective May 1, 1983, her grant would be suspended, respondent on April 18, 1983, requested a fair hearing. Pursuant to *N.J.S.A. 52:14F-1 et seq.*, the matter was transmitted on June 8, 1983 to the Office of Administrative Law as a contested case.

Pursuant to *N.J.A.C. 10:81-7.1*, benefits were continued unreduced pending the outcome of the fair hearing. Since respondent was reinstated in June to the AFDC program, it was not necessary to consider an Order for Continued Benefits pending the issuance of a final decision.

The only issue in this matter is whether respondent's earned income in March was correctly calculated. According to the agency, respondent's earned income in March was one dollar more than the income ceiling for eligibility and, therefore, she was found ineligible to receive

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assistance or Medicaid in May. This matter is of great importance to respondent because she is under the care of a doctor and requires antidepressant drugs which cost \$26.23 a month. Her daughter has epilepsy and must receive anticonvulsant drugs which cost \$40.33 every 25 days. Respondent had to renew that prescription during the period of alleged ineligibility.

It is uncontested that respondent's gross income from salary checks received in March was as follows:

February 27, 1983	\$ 62.40
March 6, 1983	78.00
March 13, 1983	78.00
March 20, 1983	156.00
Total gross earnings	\$374.40

In calculating the March income, the computer added \$37 in Earned Income Credit (ECI) which added to the \$374.40 gross pay yielded a gross income of \$411.40. The agency then deducted \$50 as the standard deduction for a part-time employee. Respondent is no longer entitled to receive other work deductions as she has been working for more than four months. The resultant gross income after deducting \$50 is \$361. This is one dollar more than the AFDC allowance for her family of three.

I **FIND** that the regulations governing calculation of income in *N.J.A.C.* 10:82-4.1 and in *N.J.A.C.* 10:90-2.4 have been appropriately followed by the agency in all regards save one. I **FIND** that the computerized calculation of Earned Income Credit advance payment at \$37 does not conform with the regulations governing this calculation and yields a higher amount than permitted under the regulations.

N.J.A.C. 10:82-4.1(c)3 require that earned income advance payments be included in income calculations and that the determination

... shall be made in accordance with the criteria contained in IRS Publication 15 (Circular E employers Tax Guide). The amount of earned income credit to be counted shall be determined by consulting the tables in that publication and making any adjustment under which an employer may reduce the amount of advance payment. *N.J.A.C.* 10:82-4.1(c)3.

I have consulted those tables. The \$37 Earned Income Credit is correct for those who earn \$370 monthly. However, the amount is reduced if employee is paid on a weekly basis. The appropriate table for respondent's weekly earnings yield the following result:

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Date	Gross Earning	EIC
February 27, 1983	\$ 62.40	\$ 6.30
March 6, 1983	78.00	7.90
March 13, 1983	78.00	7.90
March 20, 1983	156.00	4.65
	\$374.40	\$26.75
	Total EIC =	\$26.75

It should be noted that respondent is not receiving EIC from her employer and was not aware she was eligible to receive it. But if she did receive it, her EIC in March 1983 would have been \$26.75. I **CONCLUDE**, therefore, that it was incorrect to add \$37 in EIC to respondent's gross income in March, and she was not ineligible for AFDC medicaid in May 1983.

My decision is to reverse the agency action to suspend the AFDC grant and to order benefits restored for the month of May. The agency is ordered to recalculate the grant based upon gross income of \$401.15 instead of \$411.40 and to issue a retroactive payment which reflects that calculation.

**After reviewing this Initial Decision, the
Division of Public Welfare
on August 19, 1983, issued the following Final Decision:**

Having reviewed the initial decision and any exceptions or replies submitted, I hereby adopt the decision of the administrative law judge in the above-captioned case as the final decision with comment.

The calculation of countable Earned Income Credit as amended by the administrative law judge is consistent with *N.J.A.C* 10:82-4(c)3 as applied to the client's circumstances. Accordingly, suspension of AFDC eligibility during May 1983 is reversed.

AFDC eligibility and grant entitlement shall be recalculated consistent with the applicable tables in IRS Publication 15 (Circular "E" Employers Tax Guide) and appropriate adjustments shall be made, including recovery of any assistance overpayments resulting from continued unreduced benefits during the pendency of the fair hearing.