



# 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 11136-23 K.L.

AGENCY DKT. NO. **S578791012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that he had violated motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 12, 2023, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On December 26, 2023, the ALJ issued an Initial Decision, affirming the Agency's EA benefits determination, and also reversing the Agency's termination of Petitioner's Work First New Jersey/General Assistance ("WFNJ/GA") benefits.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, AFFIRM the Agency's termination of EA benefits, and imposition of a six-month EA ineligibility penalty, and also AFFIRM the Agency's termination of WFNJ/GA benefits, based on the discussion below.

In accordance with N.J.A.C. 10:90-3.22(a), a case redetermination is a review performed periodically to review factors for continued eligibility for WFNJ benefits, and requires the benefits recipient to execute a redetermination application in order to continue receipt of said benefits. In pertinent part, pursuant to N.J.A.C. 10:90-3.22(a)(2), an "unemployable" WFNJ/GA recipient's case shall be redetermined for continued WFNJ/GA benefits every 12 months, due to age, or if permanently disabled, as evidenced by a Med-1 form; and every six months if "unemployable" for any reason other than those listed above. N.J.A.C. 10:90-3.22(b) then states that, "WFNJ recipients shall be personally interviewed by the WFNJ worker regarding the application for continuation of assistance. ...Signature requirements shall be the same as for initial application." Thereafter, "[w]hen there is a substantial question of continuing WFNJ eligibility to be resolved, the monthly assistance benefit may be suspended, subject to timely and adequate notice provisions at N.J.A.C. 10:90-9, for a period of up to three months." See N.J.A.C. 10:90-3.22(c). However, "[i]f a determination is made to terminate WFNJ assistance, the county or municipal agency shall give timely and adequate notice of the impending adverse action to the recipient." See N.J.A.C. 10:90-3.22(c)(2).

Pursuant to N.J.A.C. 10:90-9.1(b), an Agency must provide both adequate and timely notice advising of a termination, denial or suspension of welfare benefits. In part, adequate notice is a written notice outlining the intended action, the reasons for the action, and an explanation of the individual's right to request a fair hearing. See N.J.A.C. 10:90-9.1(a). Timely notice is defined as "a notice that is mailed to the recipient at least 10 calendar days before the effective date



of the action.” See N.J.A.C. 10:90-9.1(b)(1). When the Agency’s decision adversely affects a benefits recipient, there cannot be a change to the recipient’s benefits until 10 calendar days after the mailing date of the notice. See N.J.A.C. 10:90-9.1(c).

Here, Petitioner admitted, the ALJ found, and the record substantiates, that Petitioner had violated motel rules by cooking in his room, which triggered the fire alarm, causing the Fire Department to report to Petitioner’s motel room, and consequently, resulting in Petitioner’s termination from his motel placement. See Initial Decision at 3; see also Exhibits EA R-6, EA R-7, EA R-8, EA R-10 and N.J.A.C. 10:90-6.3(c)(5). Based on the foregoing, the ALJ concluded that the Agency’s termination of Petitioner’s EA benefits, and imposition of a six-month EA ineligibility penalty were proper and must stand. See Initial Decision at 6-7; see also Exhibit EA R-9, and N.J.A.C. 10:90-6.3(c)(5). I agree.

While not a transmitted issue, the ALJ in this matter reversed the Agency’s August 21, 2023, termination of Petitioner’s WFNJ/GA benefits, on the basis that the regulations relied upon by the Agency for its termination of said benefits for failure to provide certain documents, did not mandate a termination of WFNJ/GA benefits within any specific time period for failure to provide such documents. See Initial Decision at 5-6; see also Exhibit R-3, and N.J.A.C. 10:90-2.2(a)(6), -14.5(c). I find the ALJ’s determination with respect to the termination of WFNJ/GA benefits to be misplaced.

An independent review of the record reveals that Petitioner was scheduled for redetermination in order to continue eligibility for WFNJ/GA benefits. See Exhibit R-1 at 2; see also N.J.A.C 10:90-3.22(a). Without the necessary interview, and review and signature of the redetermination application, eligibility for WFNJ/GA benefits ceases at the end of the current eligibility period. See N.J.A.C. 10:90-3.22(a), (b). Following the required telephone interview on July 19, 2023, the Agency forwarded the necessary documentation to Petitioner on July 31, 2023, which Petitioner needed to sign and return to the Agency no later than August 18, 2023. See Exhibit R-2 at 18; see also N.J.A.C. 10:90-3.22(b). The July 31, 2023, notice sent to Petitioner, with the forms needing signature, clearly states, “[Sign and return the enclosed forms. ...If the agency does not receive the required information listed above by 8/18/2023 (30 days from date of application), your [redetermination] application will be denied on 8/18/2023.” See Exhibit R-2 at 18. As outlined above, the Agency determined to terminate Petitioner’s WFNJ/GA benefits, at redetermination, because Petitioner failed to return forms which, by law, must be signed at redetermination, just as at the time of Petitioner’s initial application for WFNJ/GA benefits. See Exhibit R-3; see also N.J.A.C 10:90-3.22(b). In accordance with applicable regulatory authority, the determination to terminate Petitioner’s WFNJ/GA benefits at the end of the expiring eligibility period was proper, so long as timely and adequate notice was provided, which, I find, occurred in this case. *Ibid.*; see also N.J.A.C. 10:90-3.22(b), (c)(2), -9.1(b),(1). As such, I find that the Agency’s termination of WFNJ/GA benefits in this matter was proper and must stand. Additionally, the record reflects that Petitioner thereafter reapplied for WFNJ/GA benefits in September 2023, as required by the Agency, and provided the Agency with the required signed documentation needed to determine eligibility for said benefits. See Exhibit R-4 at 20-28; see also N.J.A.C. 10:90-2.2(a). Furthermore, I hereby take official notice that the records of this office reflect that Petitioner began receiving WFNJ/GA benefits on September 13, 2023, and that to date, he continues to receive said benefits. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). The Initial Decision is modified to reflect these findings.

By way of comment, it should be noted that in instances such as this, where a violation of shelter rules is at issue, it is the type of violation set forth at N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e) which is controlling here, and not the regulatory authority set forth at N.J.A.C. 10:90-6.6(a), regarding EA service plan violations. See Initial Decision at 2-3, 6.

By way of further comment, because Petitioner has received continued assistance pending the outcome of this fair hearing, his six-month EA ineligibility penalty will begin to run as of the date of the issuance of this Final Agency Decision.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency’s determination is AFFIRMED, as outlined above.

Officially approved final version. April 5, 2024

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Natasha Johnson  
Assistant Commissioner

