



State of New Jersey

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 3785-14 C.T.

AGENCY DKT. NO. C082751 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of her Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits because she failed to comply with the work requirement. Because the Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 23, 2014, the Honorable Margaret Monaco, Administrative Law Judge ("ALJ"), adjourned a scheduled hearing date in order to allow Petitioner time to obtain additional documentation. On June 13, 2014, the Honorable Leland S. McGee, ALJ, held a hearing, took testimony and admitted documents. On June 17, 2014, the ALJ issued an Initial Decision, which reversed the Agency's termination. The ALJ found Petitioner was eligible for an exemption from her work requirements because she provided a completed medical deferral form relating to the care of her child at the hearing. The ALJ also found Petitioner's husband, T.A., was eligible for a deferral because he supplied a written letter from a physician at the hearing. The ALJ ordered Petitioner provide to the Agency within 30 days a completed medical deferral form for T.A. and "the reason that it is necessary for both parents to be excused from [the work] requirement." (bold in original omitted).

The Agency submitted exceptions on July 3, 2014. The Agency maintains that it properly terminated Petitioner's WFNJ/TANF benefits because Petitioner failed to provide any medical documentation supporting a caretaker deferral for herself or T.A. until the hearing. The Agency noted that despite providing Petitioner with a Confidential Medical Examining Physician's Report for Dependent Child (the "Caretaker Exemption Form") on October 31, 2013, February 4, 2014 and March 17, 2014, Petitioner did not provide the completed Caretaker Exemption Form until the first hearing date in this matter, May 23, 2014.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision, and I REJECT the Initial Decision. I find the Agency properly terminated Petitioner's WFNJ/TANF benefits based upon her and T.A.'s failure to comply with their work requirements.

In order to maintain eligibility for receipt of WFNJ/TANF benefits, the recipient must cooperate with and participate in the WFNJ work activity requirements. Failure of a WFNJ/TANF recipient to comply with her work requirement without good cause will result in the loss of assistance, including a reduction in WFNJ/TANF benefits and ultimately, case closure. N.J.A.C. 10:90-4.13. Before a sanction can be imposed, the Agency must "determine whether good cause for noncompliance exists" N.J.A.C. 10:90-4.13(h). Good cause may exist for an absence from a WFNJ activity for "circumstances requiring the participant's immediate and personal attention, including but not limited to . . . a court appearance, school conferences . . . medical diagnosis or testing, and other similarly important matters." N.J.A.C. 10:90-4.11(b)(2)(iii). However, the participant must notify "an appropriate person at the work activity of the need for an absence from a particular day" or provide appropriate documentation. N.J.A.C. 10:90-4.11(b)(2).

Here, Petitioner and T.A. signed an Individual Responsibility Plan ("IRP") agreeing to comply with their assigned work activity and acknowledging that failure to do so would result in a loss of cash assistance. See Exhibit R-4, IRP, October 31 and November 8, 2013. On three separate occasions, the Agency provided Petitioner with the Caretaker Exemption Form for completion by a physician in order for her to receive a caretaker exemption from work activity. See Exhibit R-6, R-9 and R-10, Letters from Agency to Petitioner with blank Caretaker Exemption Forms, dated October 31, 2013, February 4, 2014 and March 17, 2014, respectively. In December 2013, Petitioner was notified that she and T.A. were not in compliance with their work activity and her WFNJ/TANF case would be closed effective March 1, 2014, unless she returned to compliance. The record lacks any medical documentation provided by Petitioner and T.A. to the Agency to explain their absences in 2013 from their required work activity. See Exhibit R-5, Enrollment Routing Form (indicating "no show" for work activity). Petitioner only provided a completed Caretaker Exemption Form in May 2014, which only covers the period March through August 2014, and T.A. only provided a physician's letter in July 2014, which does not provide specific dates but suggests coverage for the period June through September 2014. Indeed, despite ample opportunities, Petitioner failed to submit the necessary Caretaker Exemption Form. As a whole, the record clearly shows Petitioner has failed to demonstrate any good cause for her and T.A.'s noncompliance with their work requirements. Thus, the Agency properly sanctioned Petitioner for her and T.A.'s failure to comply with their work requirements and terminated Petitioner's WFNJ/TANF benefits because neither she nor T.A. were eligible for a caretaker or good cause exemption from their work activities.

Moreover, Petitioner must re-apply for WFNJ/TANF benefits. See N.J.A.C. 10:90-2.2(e)(requiring re-application after loss of cash assistance due to noncompliance with work activities); and -4.13(c)3(requiring re-application after an assistance unit's case has been closed due to noncompliance). Also, based on the Caretaker Exemption Form she submitted at the hearing, Petitioner may now be eligible for a caretaker exemption, however, Petitioner must provide the Agency with an updated Caretaker Exemption Form to support any exemption from her work activity beyond August 31, 2014, which is the date G.T.'s disability ends. In addition, T.A. remains an ineligible member of the assistance unit until he returns to compliance with his work requirements. See N.J.A.C. 10:90-2.2(a)7(requiring satisfaction of any sanction incurred); -2.2(d)(rendering ineligibility to all or some assistance unit members due to noncooperation with WFNJ program requirements; -2.2(e)(following loss of cash assistance due to noncompliance with work activities, individual must re-apply, satisfactorily complete sanction obligations and comply with work activities in order to qualify for WFNJ/TANF); and -4.13(c)(discussing pro-rata reduction in benefits for noncompliant assistance unit member).

Furthermore, T.A. is not eligible for a caretaker exemption. Pursuant to N.J.A.C. 10:90-4.10(a)10, only "[t]he sole caretaker (parent/relative) of a severely disabled or seriously ill dependent child . . ." is eligible for a caretaker exemption. In other words, only one parent is eligible to be the caretaker of an ill dependent child and receive the caretaker exemption. Here, Petitioner has submitted the Caretaker Exemption Form for purposes of receiving an exemption from her work activity in order to care for G.T. See Exhibit P-1, Caretaker Exemption Form. Hence, T.A. cannot be the "sole caretaker" of G.T. because Petitioner is G.T.'s designated "sole caretaker." Because the caretaker exemption is not available to T.A., he must comply with any and all work requirements in order to receive WFNJ/TANF benefits. Additionally, a written letter from a physician is insufficient for purposes of qualifying for a caretaker exemption. Significantly, N.J.A.C. 10:90-4.10(a)10i requires that a parent provide a completed Confidential Medical Examining Physician's Report for Dependent Child, referred to here as the Caretaker Exemption Form, in order to qualify for the caretaker exemption.

By way of comment, it appears that the Agency reinstated Petitioner's WFNJ/TANF benefits pending the fair hearing in this matter. Because the Agency properly terminated Petitioner's WFNJ/TANF benefits, the Agency should seek recoupment of any WFNJ/TANF benefits to which Petitioner was not entitled pending this matter.

Accordingly, the Initial Decision is REJECTED and the Agency's action in terminating Petitioner's WFNJ/TANF benefits is AFFIRMED.

AUG 14 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director