



State of New Jersey

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 12981-14 K.S.

AGENCY DKT. NO. C181576 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits under the Housing Hardship Extension ("HHE") pilot because she was sanctioned within 12 months of her application. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law for a hearing. On October 10, 2014, the Honorable Irene Jones, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony and admitted documents. On the same date, the ALJ issued an Initial Decision. The ALJ reversed the Agency's denial of HHE based on a sanction because the Agency presented a printout verifying sanctions, but not the "underlying facts" that resulted in the sanction. At the same time, the ALJ affirmed the agency's denial of a HHE because she concluded Petitioner had received 49 months of EA and the regulations only provide for a maximum of 24 months of EA.

Exceptions to the Initial Decision were received on October 31, 2014, from Essex-Newark Legal Services on behalf of Petitioner. Petitioner states that the ALJ affirmed the Agency's denial of a HHE based on her excessive job absenteeism and requests that the ALJ's decision be reversed. It is noted that Essex-Newark Legal Services did not make an appearance at the hearing.

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 ALJ's Initial Decision and AFFIRM the Agency's denial of EA benefits.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). EA benefits are limited to 12 months, plus limited extensions for "extreme hardship" where the recipient has taken "all reasonable steps to resolve the emergent situation but the emergency nonetheless continues or a new emergency occurs, which causes extreme hardship to the family." N.J.A.C. 10:90-6.4; N.J.S.A. 44:10-51. Specifically, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient may qualify for an additional six months of EA when an "extreme hardship" exists. *Ibid.* If the recipient's extreme hardship continues to exist at the expiration of the 6-month extension period, then an additional 6 months of EA may be provided. *Ibid.* Thus, the maximum amount of EA a WFNJ/TANF recipient may receive is 24 months.

In the event a WFNJ/TANF recipient has exhausted their lifetime limit of EA, including both "extreme hardship" extensions, she may qualify for a HHE, which expands upon the granting of EA extensions for TANF recipients. N.J.A.C. 10:90-6.9. However, in order to qualify for an extension under the HHE pilot, a WFNJ/TANF recipient must meet the strict criteria set out in the regulation establishing the pilot program. See N.J.A.C. 10:90-6.9. If eligible, the WFNJ/TANF recipient may receive up to an additional twelve months of EA. *Ibid.* But, a WFNJ/TANF recipient who has received a sanction within the 12-month period prior to applying for an HHE is ineligible for the program. N.J.A.C. 10:90-6.9(c)(1).

Here, Petitioner has exhausted her lifetime limit of EA benefits, plus two extreme hardship extensions: Indeed, Petitioner has received a total of 49 months of EA, which is well-beyond the maximum amount of EA benefits permitted by the regulations. N.J.A.C. 10:90-6.4.

Furthermore, Petitioner is not eligible for an extension of EA under the HHE pilot. N.J.A.C. 10:90-6.9(c)(1) sets a bright-line rule that a sanction within the 12-month period prior to applying for a HHE disqualifies a WFNJ/TANF recipient from eligibility for the HHE pilot. I find a review of the record clearly shows that Petitioner incurred sanctions well within the 12 months preceding her application for a HHE. Significantly, Petitioner admits to receiving a sanction in her EA application and in her hearing testimony. See Exhibit R-1 at EA application and Initial Decision at Fact #6; see also Exhibit R-1, WFNJ History Printout (showing that Petitioner received no WFNJ/TANF payments for two months in 2014 due to sanctions). Therefore, I find that Petitioner incurred sanctions within the 12 months prior to her HHE application. Consequently, Petitioner is ineligible for a HHE pursuant to N.J.A.C. 10:90-6.9(c)(1) and the Agency's denial of a HHE was proper.

With respect to the ALJ's finding that the sanctions are unsupported because the Agency was unable to provide "the underlying facts regarding the sanction," I disagree. The sole issue on appeal is whether the Agency properly denied

Petitioner EA under the HHE pilot. The underlying facts supporting the Agency's imposition of the sanctions are only relevant if the issue on appeal is whether the sanction was properly or improperly imposed by the Agency. However, Petitioner is out of time to appeal the Agency's imposition of her sanctions. Pursuant to N.J.A.C. 10:90-9.10(a), a WFNJ/TANF recipient must request a hearing within 90 calendar days of an Agency action or inaction. Moreover, only DFD has the authority to grant a relaxation of the 90-day requirement. N.J.A.C. 10:90-9.10(b). In Petitioner's case, I do not find that her circumstances warrant relaxation of the 90-day time limitation and as a result, Petitioner's time to appeal the imposition of the sanctions has expired.

In addition, contrary to the ALJ's conclusion, Petitioner's termination from employment is a voluntary quit because her actions led to her dismissal. Significantly, EA shall not be provided for a period of 6 months when the individual has caused her own homelessness, without good cause, for reasons including the individual's voluntary cessation of employment. N.J.A.C. 10:90-6.1(c)(3). Hence, apart from any sanction imposed due to her failure to comply with her WFNJ work requirements, Petitioner is also subject to a 6-month period of EA ineligibility.

By way of comment, the Agency shall refer Petitioner to any agencies that may be able to assist with her current needs.

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

NOV 05 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director