



State of New Jersey

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Director

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 18212-18 B.P.

AGENCY DKT. NO. C110955003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's sanctioning of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, and the termination of Emergency Assistance ("EA") benefits and imposition of a six-month period of ineligibility for EA benefits. The Agency sanctioned Petitioner's WFNJ/TANF benefits, contending that she and her boyfriend ("V.W.") failed to comply with the mandatory WFNJ work activity. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that she and V.W. had failed to comply with their EA service plan ("SP") when they were sanctioned for noncompliance with the WFNJ work activity. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 22, 2019, the Honorable Jeffrey N. Rabin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow the Agency the opportunity to respond to additional documentation submitted by Petitioner. On February 7, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

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 MODIFY the ALJ's Initial Decision, and AFFIRM the Agency's determination with respect to the sanctioning of Petitioner's WFNJ/TANF benefits, and REVERSE the Agency's determination as to Petitioner's EA benefits, as discussed below.

In order to maintain eligibility for receipt of WFNJ benefits, a recipient must cooperate with, and participate in, the WFNJ work activity requirements. See N.J.A.C. 10:90-2.2(a)(2), -4.1(d). If a WFNJ benefits recipient fails to comply with their work activities without good cause, the recipient is subject to a sanction resulting in a pro-rata reduction of WFNJ benefits for the first month. See N.J.A.C. 10:90-4.13(b). Thereafter, if the WFNJ benefits recipient is still non-compliant, without good cause, the WFNJ benefits will be suspended for one month. See N.J.A.C. 10:90-4.13(b)(1). If the non-compliance continues, the recipient's case will close the month after the suspension of WFNJ benefits. See N.J.A.C. 10:90-4.13(b)(2).



Pursuant to N.J.A.C. 10:90-4.13(e), -6.1(c)(5) and -6.3(a)(7)(ii), EA benefits shall not be discontinued, due to a sanction for noncompliance with the work requirement, until one month after all WFNJ cash assistance has been terminated and the case closed due to the failure to correct a sanction. Further, in accordance with N.J.A.C. 10:90-6.1(c)(4), "[a]n adult household member who incurs a sanction as a result of his or her failure to comply with the WFNJ program work requirements may apply for and receive emergency assistance for himself or herself and the eligible unit while in sanction status."

Here, in accordance with regulatory authority, Petitioner and V.W were required to participate in a WFNJ work activity, and said requirement was incorporated into their SP. See Initial Decision at 2; see also Exhibit R-1 at 18, and N.J.A.C. 10:90-2.2(a)(2), -6.6(a). On December 1, 2018, both Petitioner and V.W. were sanctioned for failing to comply with their work activity. See Initial Decision at 3; see also N.J.A.C. 10:90-4.13. Subsequently, Petitioner came into compliance with her work activity and her sanction was lifted; however, because V.W. failed to come into compliance with his required work activity, his WFNJ/TANF benefits remained in sanction status, and Petitioner's December WFNJ/TANF benefits were reduced by V.W.'s pro rata share. See Initial Decision at 3; see also Exhibit R-1 at 19-27, and N.J.A.C. 10:90-4.13(c). Although the ALJ did not affirmatively address the transmitted issue regarding a sanctioning of Petitioner's WFNJ/TANF benefits, based on an independent review of the record, it is clear that V.W. failed to comply with the mandatory WFNJ work activity, without good cause, and therefore, I find that the Agency's sanctioning of the household's WFNJ/TANF benefits was proper and must stand. See Initial Decision at 2-3; see also Exhibit R-1 at 19-27, and N.J.A.C. 10:90-2.2(e), -4.1(d), -4.13. Of note, effective February 1, 2019, Petitioner was again sanctioned for failure to comply with her WFNJ work activity. See Initial Decision at 4. The Initial Decision is modified to reflect these findings.

Also, on December 20, 2018, the Agency terminated Petitioner's EA benefits because she and V.W. had been sanctioned for non-compliance with the WFNJ work requirement, in violation of their SP. See Initial Decision at 3; see also Exhibit R-1 at 6-9, 18, and N.J.A.C. 10:90-6.6(a). The ALJ agreed with the Agency's determination. See Initial Decision at 4-5. I respectfully disagree with the ALJ's conclusion. See Initial Decision at 4. Specifically, despite the fact that the SP requires Petitioner and V.W. to "comply with WFNJ," in accordance with applicable regulatory authority, referenced above, Petitioner remains eligible for EA benefits until one month after Petitioner's cash assistance has terminated and her case has closed. See Exhibit R-1 at 18; see also N.J.A.C. 10:90-4.13(e), -6.1(c)(5), -6.3(a)(7)(ii). Presuming that Petitioner failed to come into compliance after being sanctioned effective February 1, 2019, which is unknown, and that V.W. also has failed to come into compliance, the earliest Petitioner's EA benefits would terminate would be May 2019. See N.J.A.C. 10:90-4.13(e), -6.1(c)(5), -6.3(a)(7)(ii). Based on the foregoing, I find that the Agency's termination of Petitioner's EA benefits and the imposition of a six-month EA ineligibility penalty were improper and must be reversed. See Initial Decision at 3; see also Exhibit R-1 at 6-9. The Initial Decision is also modified to reflect these findings.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is AFFIRMED in part, as to the sanctioning of Petitioner's WFNJ/TANF benefits, and REVERSED in part, as to the termination of EA benefits, as outlined above.

Officially approved final version.

Natasha Johnson  
Director

MAR 28 2019

