



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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

REMAND DECISION

OAL DKT. NO. HPW 04216-19 S.M.

AGENCY DKT. NO. C170545002 (BERGEN COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Supplemental Nutrition Assistance Program (SNAP) benefits, on recertification. The Agency denied Petitioner SNAP benefits, contending that he failed to comply with the mandatory SNAP Employment and Training Program ("ETP") work activity. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for April 9, 2019, but was adjourned at the request of Petitioner due to illness. On April 25, 2019 the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open until May 3, 2019, for submission of additional documents, and then closed. On May 6, 2019, the ALJ issued an Initial Decision, reversing 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, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Pursuant to N.J.A.C. 10:87-10.16(a), if the Agency determines that an individual has failed to comply with their SNAP ETP work requirement, without good cause, the individual is rendered ineligible to participate in the SNAP program, and is treated as an ineligible household member in accordance with N.J.A.C. 10:87-7.7. A first violation "results in a disqualification of either one month or until the individual complies with the work registration or NJ SNAP ETP requirement, which he or she failed to perform, whichever is later." N.J.A.C. 10:87-10.16(a)(1).

Here, Petitioner's SNAP household consists of one adult. See Exhibit R-3. The record shows that on recertification for continued SNAP benefits, Petitioner was required to participate in an ETP work activity. See Initial Decision at 2; see also Exhibit R-6, and N.J.A.C. 10:87-10.4(b)(1)(2). The record also indicates that Petitioner attended his ETP appointments scheduled on October 22, October 30, and November 5, 2018. See Initial Decision at 2; see also Exhibits R-7, R-10. At the October 22, 2018, ETP orientation, Petitioner was advised that he was required to participate in a volunteer activity, and



would need to provide a letter from his volunteer site by November 21, 2018, confirming his volunteer activity participation. See Initial Decision at 2. Petitioner arranged to volunteer at a church, and had attempted to get a letter from the church's pastor by the date required, but the pastor was away, and the letter could not be obtained until the pastor returned on the following Sunday. Ibid. Nevertheless, Petitioner attended the November 21, 2018, ETP appointment without the required letter, and testified that he was then instructed by the One-Stop worker, who was also a witness at the fair hearing, "not to bother to come back." Id. at 2-3; see also Exhibit R-10. As a result, Petitioner believed that he was discharged from the program, and that the letter would not be accepted after that date, and therefore, he never returned to the Agency to report the incident, or obtain the required letter. See Initial Decision at 3. Consequently, by notice dated March 8, 2019, at what appears to be near the end of Petitioner's previous SNAP certification period, the Agency denied Petitioner's SNAP recertification application, contending that he had failed to comply with the ETP, by not having a volunteer work site as required. See Exhibits R-4, R-5 and R-10; see also N.J.A.C. 10:87-10.4.

However, the ALJ found that Petitioner had been involved in a volunteer activity in a church, and although he had failed to timely provide the required letter, confirming his participation in that voluntary activity, he credibly testified that he had "good cause" for his inability to provide the required letter, and that, if given a brief extension of time, he could have produced the letter by the next ETP appointment. See Initial Decision at 3. Accordingly, the ALJ concluded that the Agency's sanctioning of Petitioner's SNAP benefits was improper, that said 60-day sanction should be lifted, and that Petitioner be given the opportunity to complete his ETP requirement. Id. at 4-5.

While I agree with the ALJ's ultimate conclusion, the record reflects that the Agency never imposed a "30-day disqualification penalty," from receipt of SNAP benefits, in accordance with N.J.A.C. 10:87-10.16(a)(1), but rather, continued to provide Petitioner with SNAP benefits until such time as his SNAP certification period ended. See Initial Decision at 3-5; see also Exhibit R-4. Moreover, there is no "60-day sanction," as referenced by the ALJ, but rather, applicable regulatory authority states that a second violation, for failure to comply with the work requirement, will result in a disqualification from receipt of SNAP benefits for three months, or until compliance, whichever is later, and there is no evidence in the record reflecting any imposition of same. See N.J.A.C. 10:87-10.16(a)(2); see also Initial Decision at 5 and Exhibit R-4. Based on the foregoing, I am remanding this matter to the Agency and direct it to rescind any disqualification penalty imposed upon Petitioner, and to reschedule Petitioner for a new ETP work requirement. Further, if Petitioner complies with the work activity, and provides the required documentation, the Agency shall reevaluate Petitioner for SNAP benefits, and provide same to him retroactive to the beginning of his certification period. N.J.A.C. 10:87-8.18. The Initial Decision is modified to reflect these findings.

By way of comment, Petitioner is reminded of his responsibility to provide the Agency with all required documentation as requested.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's action is REVERSED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

Natasha Johnson
Director

MAY 16 2019

