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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 16849-19 V.R.

AGENCY DKT. NO. C446727007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's sanctioning of Petitioner's Work First New Jersey/ Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and the termination of Petitioner's Emergency Assistance ("EA") benefits. The Agency sanctioned Petitioner's WFNJ/TANF benefits, contending that she failed to comply with the WFNJ mandatory work activity. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 19, 2019, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 7, 2020, 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 MODIFY the Agency's determination, based on the discussion 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 applicable regulatory authority, 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. See N.J.A.C. 10:90-4.13(e), -6.1(c)(5).



Here, Petitioner was required to participate in a WFNJ work activity, and said requirement was incorporated into Petitioner's Individual Responsibility Plans ("IRP"). See Initial Decision at 2; see also Exhibits R-1, R-2, and N.J.A.C. 10:90-2.2(a)(2), -4.1(d). It appears from the record that in September 2019, Petitioner was sanctioned for failing to comply with her work activity. See Initial Decision at 2-3; see also Exhibits R-3, R-4, and N.J.A.C. 10:90-4.13. As of the time of the hearing, Petitioner had not come into compliance with her work activity, and unless she has since come into compliance, her WFNJ/TANF benefits case will have closed on December 1, 2019. See Initial Decision at 3; see also N.J.A.C. 10:90-4.13(a), (b), (c). The ALJ found that Petitioner had failed to comply with her WFNJ work activity, without good cause, and concluded that the Agency's sanctioning of Petitioner's WFNJ/TANF benefits was proper and must stand until such time as Petitioner comes into compliance with her required WFNJ work activity. See Initial Decision at 3-4; see also N.J.A.C. 10:90-2.2(e), -4.1(d), -4.13. I agree.

Additionally, the transmittal in this matter indicates that Petitioner also appealed a denial/termination of EA benefits. See Initial Decision at 1. Said termination was not addressed by the ALJ in the Initial Decision. However, based on an independent review of the record, I find that, despite the fact that Petitioner was sanctioned for failure to participate in her required WFNJ work activity, in accordance with the applicable regulatory authority referenced above, Petitioner remains eligible for EA benefits until one month after her cash assistance has terminated and her WFNJ/TANF benefits case has closed. See Exhibit R-1 at 11; see also N.J.A.C. 10:90-4.13(e), -6.1(c)(5). Presuming that Petitioner failed to come into compliance after being sanctioned effective September 1, 2019, the earliest date that Petitioner's EA benefits could terminate would be February 1, 2020. See Initial Decision at 2-3; see also N.J.A.C. 10:90-4.13(e), -6.1(c)(5). Based on the foregoing, I find that any termination of Petitioner's EA benefits prior to February 1, 2020, would be improper and must be reversed. Moreover, I also find that if Petitioner had not come into compliance with her WFNJ work activity by December 1, 2019, it can be presumed that her WFNJ/TANF benefits case has properly closed, and as such, the Agency would terminate Petitioner's EA benefits, effective February 1, 2020, without further notice. See N.J.A.C. 10:90-6.1(c)(5). However, as Petitioner has been receiving continued assistance of EA benefits pending the outcome of this fair hearing, Petitioner's EA benefits shall terminate upon issuance of this Final Decision if Petitioner's WFNJ/TANF case has indeed closed, and Petitioner has not yet come into compliance. The Initial Decision and the Agency's determination are modified to reflect these findings.

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

Officially approved final version.

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Natasha Johnson  
Assistant Commissioner

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