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Assistant Commissioner

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 **06611-23 J.A.**

AGENCY DKT. NO. **C087569018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)**

Petitioners (J.A. & L.J.) appeal from the Respondent Agency's termination of Work First New Jersey/ General Assistance ("WFNJ/GA"), and Emergency Assistance ("EA"), benefits. The Agency terminated Petitioners' WFNJ/GA benefits for failure to comply with the mandatory WFNJ work activity and failure to comply with the mandatory Substance Abuse Initiative/Behavioral Health Initiative ("SAI/ BHI") Initiative. The Agency terminated Petitioners' EA benefits because they were no longer WFNJ benefits recipients, and for violation of shelter rules. Because Petitioners appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 15, 2023, the Honorable Sarah G. Crowley, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On August 29, 2023, the ALJ issued an Initial Decision, affirming the Agency's determinations.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), 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 determinations, 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).

In pertinent part, N.J.A.C. 10:90-4.13(e) states, "If a cash assistance case is closed due to a sanction, and the recipient is receiving [EA] benefits, then the [EA] will continue through the one-month closure



sanction, if eligible. In order to receive [EA] during any sanction penalty period, the recipient must continue to be eligible for emergency assistance benefits.”

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient’s actions, without good cause, which may include, but are not limited to, “destruction of shelter property or the property of others,” and/or “threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents.” See N.J.A.C. 10:90-6.3(c)(2), (3); see also DFDI Instruction (“DFDI”) No. 21-02-03. However, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility’s policies, such as visitation or curfew. See N.J.A.C. 10:90-6.3(e); see also DFDI No. 08-05-04 at 10. An adult EA benefits recipient who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, based on an independent review of the record, I find that by notice dated January 9, 2023, Petitioners’ WFNJ/GA benefits were sanctioned, effective February 1, 2023, suspended effective March 1, 2023, and their WFNJ/GA case closed, effective April 1, 2023, for failure to come into compliance with their sanctions which were imposed for failure to comply with the mandatory WFNJ work activity and for failure to comply with the mandatory SAI/BHI program. See Initial Decision at 2-3; see also Exhibit C-1 through C-10, and N.J.A.C. 10:90-2.2(a)(2), -4.1(d), -4.13(b)(1), (2). As Petitioners failed to come into compliance with program requirements, I find that the Agency properly terminated Petitioners’ WFNJ/GA benefits.

Due to the failure to come into compliance and the resultant closure of their WFNJ case, in accordance with regulatory authority, by notice dated March 30, 2023, effective May 1, 2023, the Agency terminated Petitioners’ EA benefits. See Initial Decision at 2-3; see also Exhibit B-1 through B-11, and N.J.A.C. 10:90-4.13(e). Further, the record reflects that Petitioners executed EA service plans (“SP”) wherein they agreed to comply with the WFNJ program requirements, with the SAI/BHI program, and with shelter rules. See Exhibits I-1 through I-3 and J-1 through J-3, and N.J.A.C. 10:90-6.6(a). The ALJ found, and the record substantiates, that Petitioners had failed to comply with said SP requirements, without good cause. See Initial Decision at 2-4; see also Exhibits D-1 through H-13, I-4 through I-14, and J-4 through J-11. Although Petitioners claim that they had fully complied with their SP requirements, they failed to provide any documentary evidence to substantiate those claims. See Initial Decision at 3; see also Exhibit J-13 through J-14. Based on the foregoing, the ALJ concluded that Petitioners had violated the terms of their SPs, and affirmed the Agency’s termination of Petitioners EA benefits. See Initial Decision at 2-4; see also N.J.A.C. 10:90-6.6(a). I agree, with exception taken regarding Petitioners’ shelter rule violations.

With respect to Petitioners’ shelter rule violations, the record indicates that Petitioners had violated shelter rules by engaging in destructive, threatening, and disruptive behaviors which resulted in police involvement and evictions from numerous shelter placements, and on those bases, in accordance with regulatory authority, I find that Petitioners were also ineligible for EA benefits. See Initial Decision at 2-4; see also Exhibits D-1 through D-6, F-1, H-1 through H-12, and N.J.A.C. 10:90-6.3(c)(2), (3). Additionally, the record indicates that after Petitioners’ eviction from their last shelter placement, they were offered alternative shelter placement, but refused such offered placement. See Initial Decision at 2. Based on the foregoing, the ALJ concluded that Petitioners had violated the terms of their SPs, by violating shelter rules, and on that basis, the ALJ affirmed the Agency’s termination of Petitioner’s EA benefits. See Initial Decision at 3-4; see also N.J.A.C. 10:90-6.6(a). While I agree with the ALJ’s ultimate conclusion in this matter, in instances such as this, where violations of shelter rules are at issue, it is the type of shelter rule violation which is controlling, not Petitioners’ SPs. See Initial Decision at 3-4; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis with regards to a shelter rule violation.

Additionally, because I concur with the ALJ’s findings that Petitioners violated the terms of their SPs and violated shelter rules, in accordance with regulatory authority, I hereby impose upon Petitioners



a six-month period of ineligibility for EA benefits. See Initial Decision at 4; see also N.J.A.C. 10:90-6.3(c). Petitioners' six-month EA ineligibility penalty shall run from May 1, 2023, the effective date of the Agency's termination, through November 1, 2023. See Exhibit B-1 through B-11. The Initial Decision and the Agency's determination are modified to reflect this finding.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

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

Officially approved final version. October 19, 2023

Natasha Johnson
Assistant Commissioner

