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DIVISION OF FAMILY DEVELOPMENT
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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 **14071-23 B.M.**

AGENCY DKT. NO. **C712481007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("GA") benefits, the Agency's termination of EA benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's WFNJ/GA benefits contending that she had exhausted her 60-month time limit for WFNJ benefits, and did not qualify for an exemption from the WFNJ benefits time limit. The Agency terminated Petitioner's EA benefits, contending that she violated shelter rules, thereby causing her own emergency. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 21, 2023, and continued on December 22, 2023, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On December 22, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on December 29, 2023.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, 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.

Consistent with the WFNJ regulations, the goal of the Family Violence Option Initiative ("FVO") is to transition WFNJ recipients, who are victims of domestic violence, "from dependency on WFNJ [...] cash assistance benefits to employment and self-sufficiency." N.J.A.C. 10:90-20.1(a). The FVO allows an individual to request a waiver of WFNJ program or time-limit requirements. See N.J.A.C. 10:90-20.1(b), and -20.4(a)(2), (b)(2). The FVO does not authorize the provision of WFNJ benefits indefinitely based on an individual's history of domestic violence. See DFD Instruction ("DFDI") 12-12-05 (expressing that FVO "grants 'good cause' temporary waivers of WFNJ program requirements to [WFNJ] applicants/recipients"). Any waiver under the FVO is based on need as determined by a risk assessment. See N.J.A.C. 10:90-20.2(a)(2)(iv), -20.6, -20.7, -20.8, -20.9, and DFDI 12-12-05. An individual is re-



evaluated for their continued need for a waiver at least every six months or sooner depending on an individual's circumstances. See N.J.A.C. 10:90-20.8(c)(1), -20.9(c)(1).

“Eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual.” See N.J.A.C. 10:90-2.3(a). “At the end of an individual adult recipient’s 60 cumulative months of receipt of cash assistance, the assistance unit shall no longer be eligible to receive [WFNJ] assistance.” N.J.A.C. 10:90-2.3(a)(1). However, an individual may receive additional months of cash assistance if he/she qualifies for an exemption to, or extension of, the time limit, as set forth at N.J.A.C. 10:90-2.4 and -2.5 respectively. In relevant part, a recipient is exempt from the 60-month cumulative lifetime WFNJ limit if a “physical or mental impairment, defect or injury prevents him or her from engaging in full-time employment for a period of 12 or more months ... on a minimum of one WFNJ/MED-1, Examination Report.” N.J.A.C. 10:90-2.4(a)(3)(i). Further, as an overall regulatory requirement for receipt of WFNJ cash benefits, an applicant/recipient must apply for all other assistance that he/she may be eligible for, which includes applying for Supplemental Security Income (“SSI”) benefits. See Initial Decision at 4-6; see also N.J.A.C. 10:90-2.2(a)(3).

State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018 (“S866”), now codified at N.J.S.A. 44:10-51(a)(3), also known as EA for Specific Groups (“EASG”), and recently extended pursuant to State of New Jersey Assembly Bill, No. 5549, extends EA benefits eligibility for certain categories of individuals, including, but not limited to WFNJ recipients who are permanently disabled, as documented by a twelve (12) month MED-1 Form, and SSI benefits recipients. See DFDI No. 19-02-01.

Based on an independent review of the record, I find that Petitioner has exhausted her cumulative lifetime limit of WFNJ cash benefits and her cumulative lifetime limit of EA benefits. See Initial Decision at 2; see also Exhibit R-2. The record also reflects that, as a victim of domestic violence (“DV”), Petitioner was granted a waiver from the WFNJ and EA lifetime limits in March 2023, which expired, effective October 1, 2023, resulting in the termination of said benefits. See Initial Decision at 2-3; see also Exhibit R-1, and N.J.A.C. 10:90-2.3(a)(1), -6.4(a), (b), and -20.1 et seq. The ALJ found the Agency’s notice of termination deficient as it provided no explanation as to how or why the Agency had made its determination, nor had the Agency inquired into whether Petitioner’s domestic violence still existed. See Initial Decision at 4-5. Nevertheless, in accordance with regulatory authority, Petitioner is to be re-evaluated for her continued need of an FVO waiver at least every six months or sooner depending on her individual circumstances. See N.J.A.C. 10:90-20.8(c)(1), -20.9(c)(1). However, as no current reassessment was submitted into the record, and more than six months has elapsed since the March 2023, FVO waiver had been granted, and as the ALJ found that Petitioner continues to experience domestic violence, I find that Petitioner must participate in a new FVO assessment in order to be considered for a further FVO waiver of WFNJ and EA time limits, with eligibility determinative upon the outcome of that assessment. See Initial Decision at 2-4; see also N.J.A.C. 10:90-20.12. Based on the foregoing, I find that Petitioner may be eligible for WFNJ/GA and EA benefits, contingent upon the completion of another FVO assessment, as well as remaining otherwise eligible for said benefits. See Initial Decision at 5; see also N.J.A.C. 10:90-2.2, -6.1 et seq., 20.2(a)(2)(iv), -20.7 and -20.9(c). Accordingly, the matter is remanded to the Agency to set up a referral for Petitioner to participate in a new FVO assessment, on an expedited basis, which may be completed by telephone. See N.J.A.C. 10:90-20.8(a)(1)(i). The Initial Decision is hereby modified to reflect the foregoing.

Further, although a 12-month MED-1 form was not submitted into evidence at the hearing, it appears from the record that Petitioner previously provided a 12-month MED-1 form to the Agency in April, 2023, which the Agency did not dispute. See Initial Decision at 3-4. Therefore, I find that Petitioner may also be eligible for an exemption from the WFNJ time limit, provided that she applies for SSI benefits, and submits proof of same to the Agency, as required by regulatory authority. See Initial Decision at 5; see also N.J.A.C. 10:90-2.2(a)(3), -2.4(a)(3)(i). Accordingly, I find Petitioner may be eligible for



an exemption from said WFNJ time limit, if her MED-1 form is approved, and provided she submits proof of having applied for SSI benefits to the Agency within 15 days from the date of this Final Agency Decision. Ibid. Additionally, I find that if Petitioner is found eligible for continued WFNJ benefits on the basis of having submitted a valid 12-month MED-1 form, she may also be eligible for continued EA benefits pursuant to the EASG program. See N.J.S.A. 44:10-51(a)(3); see also Initial Decision at 4 and DFDI 19-02-01. The Initial Decision is also modified to reflect these findings.

Finally, should Petitioner fail to follow through with any of the above stated contingencies, required to determine her eligibility for an exemption from the WFNJ and EA time limits, then the Agency's September 27, 2023, termination of Petitioner's WFNJ benefits, effective November 1, 2023, and the termination of EA benefits, effective September 25, 2023, shall stand as issued. See Exhibit R-1. However, if Petitioner complies with either, or both, of the above contingencies, and be found ineligible for an exemption from the WFNJ and EA time limits, Petitioner may request another fair hearing on said denial. The Initial Decision is further modified to reflect these findings.

By way of comment, the Agency's adverse action notice, terminating Petitioner's EA benefits, relies on a violation of shelter rules as the basis for said termination. See Exhibit R-1. However, that specific issue was not addressed in the Initial Decision, nor was any sufficient corroborating documentation submitted into the record with respect to the allegations. As the threshold issue of Petitioner's WFNJ issue will ultimately determine any EA eligibility, I find it unnecessary to address the basis of the Agency's EA termination at this time.

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

Officially approved final version. January 4, 2024

Natasha Johnson
Assistant Commissioner

