



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

FINAL DECISION

OAL DKT. NO. HPW 09220-18 A.M.

AGENCY DKT. NO. C127725003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's sanctioning of Work First New Jersey/General Assistance ("WFNJ/ GA") benefits, the termination of her Emergency Assistance ("EA") benefits, and the denial of an extension of EA benefits pursuant to the Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program. The Agency terminated Petitioner's EA benefits contending that she had failed to comply with her EA service plan ("SP") and had exhausted her lifetime limit of EA benefits, plus all applicable extensions; and denied Petitioner an extension of EA benefits pursuant to PHASE because she had violated her SP. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. An initial hearing was scheduled for July 2, 2018, but Petitioner failed to appear. Petitioner's mother later called to explain Petitioner's failure to appear, and the hearing was rescheduled for July 3, 2018. On that date, the Honorable Lisa James-Beavers, Acting Director and Chief Administrative Law Judge ("CALJ"), held a telephonic hearing and took testimony. Upon receipt of the Agency's fair hearing documents, as well as Petitioner's documents, the record closed on July 3, 2018. On July 5, 2018, the CALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the CALJ's Initial Decision and the record, and I hereby MODIFY the CALJ's Initial Decision, and AFFIRM the Agency's determination.

EA benefits recipients are required to develop and sign an SP with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the requirements identified in the SP, without good cause, shall result in the termination of EA benefits and a six-month period of EA ineligibility. Ibid.

In relevant part, pursuant to N.J.A.C. 10:90-6.9(b)(5), an EA benefits recipient is ineligible for PHASE if the recipient had incurred a six-month EA ineligibility penalty, due to non-compliance with their SP, within the 12-month period prior to applying for PHASE.

Here, the record reflects that Petitioner has received 41 months of EA benefits, and as such, Petitioner has exhausted her lifetime limit of EA benefits, plus all applicable extreme hardship extensions. See Initial Decision at 3; see also Exhibit R-1 at 20-30, and N.J.A.C. 10:90-6.4(a), (b), (c). Petitioner then applied for an extension of EA benefits pursuant to PHASE. See Initial Decision at 3; see also Exhibit R-1 at 32-33. The record also reflects that Petitioner executed an SP wherein she agreed, among other things, to "attend any and all programs that will help towards self-sufficiency." See Exhibit R-1 at 34. However, the CALJ found that Petitioner had violated her SP by failing to comply with the Substance Abuse Initiative ("SAI") program as required, without good cause. See Initial Decision at 5; see also Exhibits P-1, P-2, and



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R-1 at 34, 44, and 45. Specifically, Petitioner failed to attend an Intensive Outpatient Program ("IOP") needed to address her substance abuse and help move her toward self-sufficiency. See Initial Decision at 2-3, 5; see also Exhibit R-1 at 44, 45. Based on the foregoing, the CALJ concluded that the Agency's denial of an extension of EA benefits to Petitioner pursuant to PHASE, and its consequent termination of Petitioner's EA benefits was proper and must stand. See Initial Decision at 5; see also Exhibit R-1 at 15-19, 37-41, and N.J.A.C. 10:90-6.4(a), (b), (c), -6.6(a), -6.9. I agree.

However, the CALJ further concluded that should Petitioner be able to provide proof that she was unable to attend IOP due to her physical and mental issues, as she had claimed, then such proof would be sufficient to establish good cause for her failure to comply with her SP, and eligibility for EA benefits pursuant to PHASE may be established. See Initial Decision at 5. I respectfully disagree. Rather, I find that Petitioner did not have good cause for violating the terms of her SP at the time she failed to comply, and that she did not provide any such proof of good cause at the time of the hearing. See Initial Decision at 5. Therefore, I find that regulatory authority requires the imposition of a six-month period of ineligibility for receipt of EA benefits, and that Petitioner may not now provide proof of good cause for her failure to comply with the terms of her SP. See N.J.A.C. 10:90-6.6(a). The six-month EA ineligibility penalty shall begin to run from the date of the Agency's denial, April 13, 2018, through October 12, 2018. The Initial Decision is modified to reflect this finding.

By way of comment, the transmittal in this matter indicates a contested issue regarding a sanctioning of Petitioner's Work First New Jersey/General Assistance ("WFNJ/GA") benefits, which was not addressed by the CALJ in the Initial Decision. Therefore, if Petitioner still has an issue concerning a termination of WFNJ/GA benefits, she may request another fair hearing on that issue alone. Of note, however, the record indicates that Petitioner's WFNJ/GA benefits have not been sanctioned. See Exhibit R-1 at 21.

By way of further comment, as it appears from the record that the Petitioner has an open case with the Division of Child Protection and Permanency ("DCP&P"), a copy of the Initial and Final Decisions shall be forwarded to DCP&P.

Also 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 action is AFFIRMED.

Officially approved final version.

JUL 12 2018

Natasha Johnson
Director

