



State of New Jersey

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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 15193-17 N.M.

AGENCY DKT. NO. C705357007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's reduction of her Work First New Jersey/General Assistance ("WFNJ/GA") monthly benefits amount from the unemployable rate of \$210, to the employable rate of \$140, and its recoupment of an over-issuance of WFNJ/GA benefits. The Agency reduced Petitioner's WFNJ/GA monthly benefits amount contending that a recent assessment had determined that she was work ready. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for November 13, 2017, but was adjourned to November 17, 2017, to give the Agency an opportunity to further examine the matter and the basis for its action. On November 17, 2017, the Honorable Susana E. Guerrero, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On December 8, 2017, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that Petitioner has a MED-1 form indicating a 12-month disability effective June 14, 2017, through June 14, 2018, and a MED-1 form indicating the same 12-month disability effective October 17, 2017, through October 17, 2018, both of which indicate that Petitioner is unable to participate in gainful employment and/or occupational training for 12 months. See Initial Decision at 2-3; see also Exhibits R-3, R-4. Nevertheless, based on Agency-referred Behavioral Health Initiative assessments, which state, "Please reevaluate employability, the client may be able to participate in full-time work activity," the Agency determined that Petitioner was able to work, directed her to enroll in a work activity, and reduced her WFNJ/GA monthly benefits from the unemployable rate of \$210, to the employable rate of \$140, effective October 1, 2017. See Initial Decision at 3-4; see also Exhibits R-1, R-2, R-5, R-6, and N.J.A.C. 10:90-3.5(b), -3.6(a), -4.10(a). However, the ALJ found that the Agency never reevaluated Petitioner for employability prior its reduction of her WFNJ/GA benefits.

See Initial Decision at 4-5. Moreover, the ALJ found that the Agency failed to provide any authority for its rejection of Petitioner's MED-1 forms and, that indeed, the Agency had no authority to take such action when Petitioner provided valid MED-1 forms from her physician. See *id.* at 5. Based on the foregoing, the ALJ concluded that the Agency's reduction of Petitioner's WFNJ/GA benefits, and its requirement that Petitioner attend a work activity, were improper and must be reversed. *Ibid.*; see also Exhibits R-3, R-4, and N.J.A.C. 10:90-3.6(a), -4.10(a).

Exceptions to the Initial Decision were filed by Legal Services on behalf of Petitioner on December 20, 2017.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.



By way of comment, because I concur with the ALJ's conclusion, I find that there was no over-issuance of WFNJ/GA benefits payments to Petitioner, and that the Agency shall provide Petitioner with WFNJ/GA benefits at the unemployable rate of \$210, retroactive to October, 1, 2017, the effective date of the Agency's reduction of said benefits. See Initial Decision at 7; see also Exhibit R-3.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

JAN 26 2018

Natasha Johnson

Director

