



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
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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 06693-18 R.E.

AGENCY DKT. NO. C105738003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's sanctioning of his Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and the termination of his Emergency Assistance ("EA") benefits. The Agency sanctioned Petitioner's WFNJ/TANF benefits contending that he failed to comply with the mandatory WFNJ work activity and terminated his EA benefits contending that he had exhausted his lifetime limit of EA benefits, plus all applicable extensions, and that he failed to comply with his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 6, 2018, the Honorable Susan L. Olgiati, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow the Agency the opportunity to respond to additional documentation submitted by Petitioner. The record then closed on June 12, 2018. On June 29, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on July 31, 2018.

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 AFFIRM the Agency's determination.

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). 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 N.J.A.C. 10:90-6.3(a)(7)(ii), 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.

Here, in accordance with regulatory authority and Petitioner's Individual Responsibility Plan, Petitioner was required to participate in a WFNJ work activity. See Initial Decision at 6; see also Exhibit P-1, and N.J.A.C. 10:90-4.7. However, Petitioner had several unexcused absences from his required work activity in the months of April and May, 2018. See Initial Decision at 2-3, 6; see also Exhibits P-2, R-49, R-50, R-51. Although Petitioner claimed that he was unable to attend work on those occasions due to lack of child care, the record reflects that the Agency had offered child care services to Petitioner, but he had refused said services. See Initial Decision at 2-3, 4-5, and N.J.A.C. 10:90-4.11(a)(3). Petitioner also claimed that he was required to stay home in order to take care of his daughter, however, he did not provide the Agency with a MED-5 form indicating that his daughter had a disability requiring him to stay home as her sole caregiver. See Initial Decision at 4-5; see also Exhibit R-52, and N.J.A.C. 10:90-4.10(a)(10). Based on the foregoing, the ALJ concluded that Petitioner had failed to comply with the mandatory WFNJ work activity, without good cause, and therefore, the Agency's sanctioning of Petitioner's WFNJ/TANF benefits was proper and must stand. See Initial Decision at 7-9, 11; see also Exhibit P-2 at 34-36, and N.J.A.C. 10:90-2.2(e), -4.1(d), -4.13. I agree.

Also, the Agency terminated Petitioner's EA benefits contending that he failed to comply with his SP by failing to comply with his WFNJ work activity, for which he had incurred a sanctioning of his WFNJ/TANF benefits, and because Petitioner had exhausted his lifetime limit of EA benefits, plus all applicable extensions. See Initial Decision at 3-4; see also Exhibits R-1 at 23-27, 33-37, and N.J.A.C. 10:90-6.4(a), (b), (d), -6.6(a). The ALJ agreed. See Initial Decision at 10-11. I note, however, that regulatory authority states that a WFNJ benefits recipient's EA benefits may not be terminated due to a sanctioning of WFNJ benefits, until one month after closure of the WFNJ case. See N.J.A.C. 10:90-6.3(a)(7)(ii); see also N.J.A.C. 10:90-4.13(e). This is true despite the fact that Petitioner's SP requires him to "cooperate with [WFNJ]." See Exhibit R-1 at 33. Regardless, the record in this matter reflects that Petitioner has, indeed, exhausted his lifetime limit of EA benefits, plus all available extreme hardship extensions, and that he does not qualify for an extension of those benefits under the Provisional Housing-Awaiting Supplemental Security Income/Social Security Disability Insurance Eligibility ("PHASE") Pilot Program. See Initial Decision at 9-10; see also Exhibit R-1 at 27, and N.J.A.C. 10:90-6.4(a), (b), (d), -6.9. On that basis, I concur with the ALJ's conclusion that the Agency's termination of Petitioner's EA benefits was proper and must stand. See Initial Decision at 11. The Initial Decision is modified to reflect these findings.

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

By way of further comment, I have reviewed Petitioner's Exceptions and find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is AFFIRMED.

Officially approved final version.

AUG 16 2018

Natasha Johnson
Director

