



State of New Jersey

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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 12651-18 R.W.

AGENCY DKT. NO. C706340007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's sanctioning of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, the denial of Emergency Assistance ("EA") benefits, and the termination of Supplemental Nutrition Assistance Program ("SNAP") benefits. The Agency sanctioned Petitioner's WFNJ/TANF benefits contending that she failed to comply with the required WFNJ work activity, denied Petitioner EA benefits contending that she was not an eligible WFNJ/TANF benefit recipient or a Supplemental Security Income benefits recipient, and terminated Petitioner's SNAP benefits because she failed to attend the mandatory recertification interview. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 18, 2018, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 21, 2018, the ALJ issue an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

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, REVERSE the Agency's determination, and REMAND the SNAP issue alone to the Agency for action, based on the discussion below.

A Settlement Agreement ("Settlement") between parties to a lawsuit is a contract by which they are bound. See *Nolan v. Ho*, 120 N.J. 465, 472 (1990); see also N.J.A.C. 10:90-9.16(c)(stating that, "[i]f the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties").

Pursuant to N.J.A.C. 10:87-9.1(a), "No household may participate [in SNAP] beyond the expiration of the certification period ... without a determination of eligibility for a new period. Households shall apply for recertification and shall comply with interview and verification requirements."



Here, the ALJ found that for purposes of WFNJ/TANF, EA, and SNAP benefits eligibility, Petitioner's minor child "N" resides with Petitioner in New Jersey, and that the child's monthly Retirement Survivors Disability Insurance ("RSDI") benefits in the amount of \$431.00 are remitted to his father in New York. See Initial Decision at 2-3, 5; see also Exhibits P-3, and R-1. As such, the child's RSDI benefits, in this case, are not counted as income for purposes of Petitioner's WFNJ/TANF, EA or SNAP benefits eligibility.

Regarding the Agency's sanctioning of Petitioner's WFNJ/TANF benefits, the record reflects that said benefits were sanctioned by the Agency because Petitioner failed to participate in the required WFNJ work program in the month of June 2018. See Initial Decision at 2. However, the ALJ found that Petitioner had good cause for her failure to participate because she was caring for her gravely ill, now deceased, mother during that time. *Ibid.* The Agency testified that, had it been informed of Petitioner's circumstances, it would not have sanctioned her WFNJ/TANF benefits. *Ibid.* Therefore, the ALJ concluded, and the Agency agreed, that upon submission by Petitioner of documentation regarding her mother's illness and death, that the Agency will lift Petitioner's WFNJ/TANF benefits sanction. *Id.* at 2, 4. I agree.

Further, regarding the denial of EA benefits to Petitioner, the record reflects that Petitioner and the Agency entered into a Settlement in connection with a prior fair hearing, wherein the Agency agreed to provide Petitioner with EA benefits in the form of back rent for the months of November 2017, through January 2018, as well as prospective EA benefits for up to six months. *Id.* at 3; see also Exhibit P-2.

Therefore, based on that Settlement, the ALJ concluded that Petitioner is eligible for EA benefits. See Initial Decision at 5; see also Exhibits P-2, R-2, and N.J.A.C. 10:90-9.16(c). However, because it is unclear whether or not Petitioner is still residing in her apartment, the ALJ further concluded that said EA benefits shall be provided to Petitioner in the form of back rent and continued Temporary Rental Assistance or, in the alternative, shelter placement. See Initial Decision at 5. I agree.

Finally, with respect to the termination of Petitioner's SNAP benefits, the ALJ found that Petitioner also had good cause for failing to attend her SNAP recertification interview due to Petitioner's caring for her ailing mother. *Id.* at 4. As such, it appears that the ALJ also concluded that the Agency's termination of Petitioner's SNAP benefits was improper. *Id.* at 4-5. I respectfully disagree. Rather, I find that, in accordance with applicable regulatory authority, Petitioner cannot receive SNAP benefits beyond her certification period, which ended on August 31, 2018, and that she must first go through the recertification application process before she can again receive SNAP benefits. See Exhibit R-3 at 2; see also N.J.A.C. 10:87-9.1(a). Based on the foregoing, I am remanding this issue to the Agency to schedule a SNAP recertification interview with Petitioner, on an expedited basis, with retroactive SNAP benefits to be provided to the beginning of Petitioner's recertification period, September 1, 2018, upon Petitioner's recertification eligibility determination, as applicable. See N.J.A.C. 10:87-8.18. The Initial Decision is modified to reflect this finding.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's action is REVERSED, and the SNAP issue is REMANDED to the Agency for action, as outlined above.

Officially approved final version.

OCT 15 2019

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Natasha Johnson  
Director

