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Assistant Commissioner

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 05824-20 R.B.

AGENCY DKT. NO. C226690004 (CAMDEN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/General Assistance ("WFNJ/GA") benefits. The Agency denied Petitioner WFNJ/GA benefits, contending that she had exhausted the lifetime limit of said benefits and did not qualify for an exemption from the WFNJ benefit time limit. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 31, 2020, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On September 21, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), 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 MODIFY the Agency's determination, based on the discussion below.

In relevant part, pursuant to N.J.A.C. 10:90-2.2(a)(3), as a condition of eligibility for WFNJ cash benefits, the applicant/recipient must apply for all other assistance for which they may be eligible, and must participate in any appeals process, as appropriate. (emphasis added).

"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." See 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 the time limit, as set forth at N.J.A.C. 10:90-2.4. 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," thereby deeming the person to be "permanently disabled." See N.J.A.C. 10:90-2.4(a)(3)(i).

Here, the record reflects that Petitioner has exhausted her 60-month lifetime limit of WFNJ/GA benefits. See Initial Decision at 2; see also Exhibit R-1 at 32-41, and N.J.A.C. 10:90-2.3(a). Petitioner was seeking an exemption from the WFNJ benefits time limit, and provided the Agency with the required 12-month MED-1 form. See Initial Decision at 2; see also Exhibits R-8, R-2, and N.J.A.C. 10:90-2.4(a)(3). The Agency denied Petitioner an exemption from the WFNJ/GA benefits time limit, contending that Petitioner's MED-1 form diagnosis did not indicate a permanent disability, and because Petitioner did not have a Supplemental Security Income ("SSI") benefits application, or appeal, pending. See Initial Decision at 2-4; see also Exhibit R-1 at 1-6. The ALJ agreed, and affirmed the Agency's denial. See Initial Decision at 5-6.



However, based on an independent review of the record, I find that Petitioner has provided the Agency with a valid MED-1 form indicating a 12-month disability. See Exhibit R-1 at 8; see also Exhibit P-2. Specifically, a revised MED-1 form submitted by Petitioner's physician, indicates that her diagnosis limits her ability to engage in gainful employment and/or occupational training from May 8, 2020, to May 8, 2021. Ibid. Based on the plain language of the regulatory authority governing such exemptions, Petitioner is eligible for an exemption of the time limit by virtue of her 12-month MED-1 form, and that neither a medical consultant, nor an agency worker, is authorized to question the judgment of an attending physician, where the submitted MED-1 form complies with the regulatory requirements. See N.J.A.C. 10:90-2.4(a)(3)(i). Moreover, DFD Instruction ("DFDI") No. 15-01-04, provides guidance to the Agency regarding MED-1 form reviews, and states, in pertinent part, that the Agency staff "should not question any diagnoses, diagnostic codes, or the credentials of any healthcare professionals entered on the MED-1." See DFDI No. 15-01-04 at 2. Stated differently, the Agency may only evaluate a MED-1 form for "completeness," or "fraud," not for medical accuracy or medical judgment. Ibid. Based on the foregoing, I find that Petitioner satisfies the definition of a "permanently disabled individual," who "shall be exempted" from the WFNJ benefits time limit pursuant to N.J.A.C. 10:90-2.4(a)(3). Further, WFNJ regulatory authority does not require that Petitioner have an SSI application pending approval or appeal in order to be granted an exemption from the WFNJ benefits time limit, and that her 12 month MED-1 form is all that is required. See Initial Decision at 2, 5; see also N.J.A.C. 10:90-2.4(a)(3)(i). Accordingly, I find Petitioner eligible for an exemption from the WFNJ lifetime limit.

Nevertheless, as an overall regulatory requirement for receipt of WFNJ cash benefits, Petitioner must apply for all other assistance that she may be eligible for, which includes applying for SSI benefits. See N.J.A.C. 10:90-2.2(a)(3). The record reflects that Petitioner had applied for, and was denied, SSI benefits on January 6, 2016, and that she failed to appeal that denial. See Initial Decision at 2, 5; see also Exhibit R-1 at 13. Of note, Petitioner is now out of time to appeal said SSI denial, and as such, Petitioner's assertion of the necessity for a transcript of that proceeding, before reapplying for SSI benefits, is misplaced. See Initial Decision at 3. The record also indicates that Petitioner does not have a current SSI application pending, and that she has refused to reapply for SSI benefits. Id. at 2, 3. Therefore, I find that, although Petitioner is eligible for an exemption from the WFNJ benefits time limit, she is ineligible for WFNJ/GA benefits, until such time as she files an application for SSI benefits, and provides proof of same to the Agency. See N.J.A.C. 10:90-2.2(a)(3).

The Initial Decision and the Agency's determination, are both modified to reflect the findings discussed above.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is MODIFIED, as outlined above.

Officially approved final version.

OCT 29 2020

Natasha Johnson
Assistant Commissioner

