



## State of New Jersey

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TRENTON, NJ 08625-0716

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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 **09275-21 N.N.**

AGENCY DKT. NO. **S600597012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's suspension of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits for a period of two months, the termination Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency suspended Petitioner's WFNJ/TANF benefits, terminated her EA benefits, and imposed a six-month period of ineligibility for EA benefits, contending that Petitioner voluntarily quit employment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 7, 2021, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record was held open to allow the parties to submit post-hearing submissions. Said submissions were received from the parties on December 21, 2021, and the record then closed.

On January 10, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the Agency suspended Petitioner's WFNJ/TANF benefits for a period of two months, terminated her EA benefits, and imposed a six-month EA ineligibility penalty, based on an Agency intra-office note indicating that Petitioner's previous employer had stated that Petitioner had been terminated from employment due to calling out of work on several occasions, despite accommodations being made to work around her childcare schedule. See Initial Decision at 2-3, 5; see also Exhibits R-3, R-4, RR-10, RR-11, and N.J.A.C. 10:90-4.14(a), (c), -6.2(b), 6.1(c)(3). Petitioner disputed her employer's claim, and the ALJ found Petitioner credible when she testified that she had only called out of work on one occasion, October 5, 2021, which was due to her child being ill and unable to attend her childcare program. See Initial Decision at 3, 5-6. Further, the ALJ found that Petitioner, as well as her co-worker, had credibly testified as to the uncooperative nature of her employer in both receiving and responding to Petitioner's telephone calls. *Id.* at 3-6. The ALJ found that the intra-office note, relied upon by the Agency, was not sufficient evidence to establish that Petitioner had indeed called out of work on more than one occasion. *Id.* at 4-6, 8; see also Exhibit R-3. Moreover, the record indicates that after the hearing had concluded, the Agency had been given the opportunity to obtain, and provide the court with records from Petitioner's employer to prove the actual dates that Petitioner had allegedly called out of work, the special accommodations made for her, and the employment policies that Petitioner allegedly violated. See Initial Decision at 4-5. However, Petitioner's employer proved uncooperative,



and the Agency was unable to obtain such documentation. Ibid. Based on the foregoing, the ALJ concluded that the Agency had failed to prove, by a preponderance of the evidence, that Petitioner had voluntarily quit her employment when she was terminated from her employment for alleged excessive absences from work. Id. at 7-9. Accordingly, the ALJ further concluded that the Agency's suspension of Petitioner's WFNJ/TANF benefits for the period of November 1, 2021, to December 31, 2021, as well as the termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. Id. at 9; see also Exhibits R-4, RR-10, RR-11. I agree.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, 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.

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

Officially approved final version.

January 27, 2022

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Natasha Johnson

Assistant Commissioner

