



## 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 **08754-22 S.G.**

AGENCY DKT. NO. **C086863003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/General Assistance ("WFNJ/GA"), and Emergency Assistance ("EA"), benefits. The Agency denied Petitioner WFNJ/GA benefits, contending that she failed to comply with the mandatory WFNJ 28-day work activity, and failed to provide required documents. The Agency denied Petitioner EA benefits because she was not a WFNJ cash benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 6, 2022, the Honorable Catherine A. Tuohy, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On October 7, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on October 12, 2022. A response to the Agency's Exceptions was filed by Legal Services, on behalf of Petitioner, on October 13, 2022. A reply to Petitioner's response was filed by the Agency on October 13, 2022.

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 REVERSE the Agency's determination, based on the discussion below.

A person shall be determined to be unemployable by the Agency, when the determination is supported by a fully completed WFNJ/MED-1 form. Upon presentation of documentation of un-employability, applicants and recipients shall be considered deferred from the work requirement in accordance with N.J.A.C. 10:90-4.10, and shall not be required to meet the WFNJ/GA 28-day work activity requirement. See N.J.A.C. 10:90-2.9(a)(2)(x)(1).

Only WFNJ cash assistance recipients and Supplemental Security Income ("SSI") benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

Here, the record reflects that Petitioner applied for WFNJ/GA and EA benefits on July 18, 2022, and was advised that she would be contacted with a date to begin the mandatory WFNJ 28-day work activity. See



Initial Decision at 2; see also Exhibit R-1 at 6-43, and N.J.A.C. 10:90-1.2(f)(8). The record also reflects that due to a series of miscommunications and missteps between Petitioner and the Agency, it was not until August 29, 2022, that Petitioner went to the One Stop office to inquire about her work activity requirement, at which time she was advised that due to her medical issues she may be exempt from participating in said work activity. See Initial Decision at 2-6; see also Exhibit R-1 at 3, 45, 54-93, 95, 102, 117. Relying upon that advice, Petitioner did not participate in the 28-day work activity. See Initial Decision at 4-6. Thereafter, on September 15, 2022, the Agency received a Med-1 form from Petitioner's physician indicating a 12-month disability and an inability to engage in employment or employment training for that period of time. See Initial Decision at 5; see also Exhibit R-1 at 74-75, 117. The record also indicates that the Agency had failed to send a second Med-1 form to Petitioner's neurologist who treats her for grand mal seizures, clearly a disability that would defer Petitioner from the 28-day work activity requirement. See Initial Decision at 4-5. Nevertheless, the Agency denied Petitioner WFNJ/GA benefits for failure to comply with the required 28-day work activity protocol, finding that her Med-1 form was invalid and that she was able to work. See Initial Decision at 4, 6; see also Exhibit R-1 at 48-51, 117, and N.J.A.C. 10:90-1.2(f)(8). Consequently, the Agency also denied EA benefits to Petitioner because she was not a WFNJ or SSI benefits recipient. See Initial Decision at 2, 6-7; see also Exhibit R-1 at 104-107, and N.J.A.C. 10:90-6.2(a).

Based on the series of unfortunate miscommunications and missteps by the Agency, and also based on Petitioner's credible testimony regarding her many attempts to comply with the 28-day work activity requirement, as well as her motivation to comply with all eligibility requirements, the ALJ found that Petitioner had good cause for failing to comply with said work activity. See Initial Decision at 2-6; see also see also Exhibits P-1, R-1 at 3, 45, 54-93, 95, 102, 117, and N.J.A.C. 10:90-1.2(f)(8). Of note, the record reflects that Petitioner had provided the Agency with all required documentation. See Initial Decision at 3; see also Exhibit R-1 at 54-93. Accordingly, the ALJ concluded that the Agency's denial of WFNJ/GA and EA benefits to Petitioner was improper, and must be reversed. *Id.* at 5-7; see also Exhibit R-1 at 48-52. I agree.

Further, based on an independent review of the record, I find that the August 15, 2022, Med-1 form provided to the Agency is valid, and as such, I find that Petitioner is deferred from complying with the 28-day work activity. See Initial Decision at 4-5; see also Exhibit R-1 at 117, and N.J.A.C. 10:90-2.9(a)(2)(x)(1). Although Petitioner's Med-1 form is somewhat inconsistent in its statement that Petitioner may "possibly" be able to engage in employment and/or occupational training, I find that Petitioner's physician clearly determined that she is permanently disabled for a period of 12 months which creates a barrier limiting Petitioners' ability to participate in gainful employment and/or occupational training, which is further bolstered by Petitioner's credible testimony regarding her grand mal seizures, and also preclude gainful employment. See Initial Decision at 4-5; see also Exhibit R-1 at 117 and Division of Family Development Instruction ("DFDI") No. 15-01-04, (providing guidance to the Agency regarding MED-1 form reviews, and which 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"). Based on the foregoing, and taking into consideration Petitioner's particular circumstances, I find that Petitioner is eligible for WFNJ/GA and EA benefits retroactive to the date of Petitioner's application for benefits. See Initial Decision at 4-6; see also N.J.A.C. 10:90-1.2(f)(8). The Initial Decision is modified to reflect these findings.

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

By way of further comment, I note for the benefit of Petitioner's counsel, as well as the Agency, that responses/replies to Exceptions, or Cross-Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2.



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

Officially approved final version.      October 20, 2022

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Natasha Johnson  
Assistant Commissioner

