



*State of New Jersey*

**DEPARTMENT OF HUMAN SERVICES**

Division of Family Development  
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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

REMAND DECISION

OAL DKT. NO. HPW 11653-15 C.I.

AGENCY DKT. NO. C168299 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") because she is no longer a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 12, 2015, the Honorable Thomas R. Betancourt, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 12, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby REJECT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND this matter to the Agency for further action.

In order to maintain eligibility for receipt of WFNJ benefits, the recipient must cooperate with and participate in the WFNJ work activity requirements. If a WFNJ recipient fails to comply with their work activities without good cause, the recipient is subject to a progression of sanctions on their WFNJ benefits, including a reduction in benefits, a suspension of benefits and ultimately, a termination of benefits. See N.J.A.C. 10:90-4.13(b).

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

The record in this matter reveals that the assistance unit consists of Petitioner and her two young children. See Initial Decision at 2. On June 4, 2015, Petitioner applied to the Agency for EA/TRA in the form of a rental security deposit. *Ibid.*; see also Exhibit R-2. At the hearing before the ALJ, the Agency representative testified that Petitioner's WFNJ/TANF case was closed on June 30, 2015, because Petitioner was employed and her income exceeded the WFNJ/TANF eligibility requirements. See Initial Decision at 2. Therefore, on July 8, 2015, the Agency denied Petitioner EA/TRA because she was no longer a WFNJ/TANF recipient. See Initial Decision at 2; see also Exhibit R-1. Additionally, the Agency representative maintained that there is currently no sanction in place against Petitioner. See Initial Decision at 2. Petitioner, however, asserts that was a sanction against her for non-compliance with her WFNJ work activity requirement, and she is also seeking to have the sanction removed. *Ibid.*

An independent review of the record clearly supports Petitioner's assertion of a sanction against her WFNJ benefits. As outlined above, a sanction against an individual's WFNJ benefits will first result in a pro-rata reduction of WFNJ benefits for the first month. See N.J.A.C. 10:90-4.13(b). Petitioner's WFNJ/TANF benefits were, in fact, reduced on June 1, 2015. See Exhibit R-3. Thereafter, if the WFNJ benefits recipient has not come into compliance, or has failed to give good cause for the non-compliance, the WFNJ benefits will be suspended for one month, and if still non-compliant, the recipient's WFNJ benefits case will close the month thereafter. See N.J.A.C. 10:90-4.13(b)(1) and (2). The record indicates that Petitioner did not receive any WFNJ/TANF benefits for July or August 2015. See Initial Decision at 3; see also Exhibit R-3. Indeed, on July 6, 2015, the Agency sent a notice to Petitioner advising that her WFNJ/TANF case would be closed effective August 1, 2015, because she had failed to comply with the WFNJ work activity requirement. See Exhibit P-1. Therefore, I find that the ALJ was incorrect when he found that Petitioner's WFNJ/TANF benefits had not been sanctioned. See Initial Decision at 3. Furthermore, it is clear that Petitioner's WFNJ/TANF case was closed due to a sanction, rather than due to excess income as claimed by the Agency representative. See Initial Decision at 2. Moreover, as a WFNJ benefits recipient, Petitioner would most likely been entitled to income disregards before becoming ineligible for WFNJ benefits due to excess income. See N.J.A.C. 10:90-3.8(b)(1).

It is clear that the pro-rata reduction of Petitioner's WFNJ/TANF benefits was effective June 1, 2015. See Exhibit R-3. As Petitioner now seeks to have the sanction lifted, or rescinded, the questions that must be answered are, did Petitioner timely appeal the sanction, and did Petitioner have good cause for non-compliance with her work activity or otherwise come into compliance.

Page 3

There is no indication in the record when the Agency may have first sent Petitioner notice of the sanction, but Petitioner certainly had constructive notice of the sanction when her WFNJ/TANF benefits were reduced on June 1, 2015. See Exhibit R-3. From that date, Petitioner had 90 days to appeal the sanction. See N.J.A.C. 10:90-9.10(a). The transmittal in this matter shows that Petitioner requested a fair hearing on August 3, 2015, which is within the 90 day appeal period, and as such, I find that Petitioner's appeal of the sanction is timely.

With regard to whether or not Petitioner had good cause for non-compliance with her work activity, or if she otherwise came into compliance, I note that the record reflects that Petitioner was employed from June 13, 2015 through July 10, 2015. See Exhibits P-2 and P-3. The record is silent, however, with respect to whether or not Petitioner properly notified the Agency of that employment, see N.J.A.C. 10:90-3.8(b)(1), and if said employment could have brought Petitioner into compliance, such that the sanction could be lifted. Therefore, I am remanding this matter back to the Agency to evaluate whether or not Petitioner had good cause for non-compliance with her work activity, or alternatively, Petitioner did, in fact, come into compliance with the work requirement which would then lift the sanction. This evaluation will then determine if Petitioner's WFNJ case was properly closed on August 1, 2015.

Furthermore, if Petitioner's WFNJ benefits were, in fact, properly sanctioned during the month of June 2015, when Petitioner applied for EA benefits, see Exhibit R-2, then the Agency should have evaluated Petitioner for EA benefits, as her WFNJ case was not yet closed.

Based upon the foregoing discussion, I reject the ALJ's Initial Decision in this matter, reverse the Agency determination and remand the matter back to the Agency to first evaluate the imposition of Petitioner's WFNJ sanction, and then to evaluate Petitioner for EA benefits.

Accordingly, the Initial Decision is hereby REJECTED, the Agency's determination is REVERSED, and this case is REMANDED to the Agency for further action as set forth herein.

**AUG 26 2015***Signed Copy on File*

at DFD, BARA

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Natasha Johnson  
Director