



DEPARTMENT OF HUMAN SERVICES

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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 7714-15 J.C.

AGENCY DKT. NO. C068201 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits. The Agency denied Petitioner's application for EA benefits because it had previously imposed a six month EA penalty after Petitioner had voluntarily quit her employment and was therefore ineligible at the present time. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On June 2, 2015, the Honorable Ellen S. Bass, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. On June 2, 2015, the ALJ issued an Initial Decision which reversed the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on June 4, 2015.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have considered the Initial Decision and following an independent review of the record, I hereby REJECT the ALJ's decision and AFFIRM the Agency's determination.

N.J.A.C. 10:90-9.10(a) provides that an applicant has the right to request a fair hearing relating to an Agency's action within 90 calendar days of such action. That regulation goes on to provide that there is no entitlement to a hearing on such action outside the 90 day period unless there are "extraordinary and extenuating circumstances ... as determined by DFD." See N.J.A.C. 10:90-9.10(b).

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The record in this matter reveals that on January 2, 2015, Petitioner was noticed of a 60 day penalty against her due to a voluntary quit from her employment, thereby rendering her household ineligible for Work First New Jersey/Temporary Assistance for Needy Assistance ("WFNJ/TANF") benefits. See Exhibit R-4. Because Petitioner was no longer a WFNJ/TANF benefits recipient, the Agency sent Petitioner notice on January 8, 2015, advising her that her EA would be terminated and a six month EA penalty would be imposed due to the voluntarily cessation of employment. See Exhibits R-2 and R-3; see also N.J.A.C. 10:90-6.1(c)(3).

I take official notice that records of this office indicate that Petitioner timely appealed both the termination of her WFNJ/TANF and EA benefits and received continued benefits pending an OAL hearing. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). I take further notice that a hearing on those issues was scheduled for April 7, 2015, under OAL docket number HPW 1100-15, Petitioner failed to appear for the hearing and the hearing was deemed abandoned.

The ALJ in this matter opined that the Agency had improperly imposed the six month EA penalty as Petitioner had good cause for not reporting to work due to transportation issues, pursuant to N.J.A.C. 10:90-4.14(c)(1), and thus directed the Agency to provide Petitioner with prospective EA benefits for six months retroactive to May 1, 2015. See Initial Decision at 4.

In light of the officially noticed facts outlined above, I find that the ALJ's conclusion is misguided. As noted above, Petitioner had a previous opportunity to contest the basis of the Agency's finding that she should be subject to a penalty for voluntarily quitting her employment, which thereby terminated both her WFNJ/TANF benefits, as well her EA benefits. Petitioner timely appealed the Agency's determinations and was scheduled for a hearing at the OAL. Yet, Petitioner abandoned that hearing. Based upon the foregoing cited regulatory authority, Petitioner has presented no extraordinary or extenuating circumstances warranting consideration of the January 2015 notices at the present time, well beyond the 90 day appeal period. Moreover, Petitioner is not now able to have a hearing on the merits of the prior appeal which she chose to abandon. As such, I find that the ALJ's consideration of the merits for the imposition of the EA penalty is both untimely and improper, and I find that the Agency determination to deny Petitioner EA benefits at this time is appropriate.

Petitioner may reapply for EA benefits on July 9, 2015, if Petitioner is still in need of benefits and subject to applicable eligibility criteria.

Accordingly, the Initial Decision in this matter is REJECTED and the Agency's action is hereby AFFIRMED.

Signed Copy on File
at DFD, BARA

JUN 10 2015

Natasha Johnson
Director