



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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

FINAL DECISION

OAL DKT. NO. HPW 3935-15 Z.R.

AGENCY DKT. NO. C174379 (UNION COUNTY DIVISION OF SOC. SVCS.)

This matter comes before me as a result of the remand of the original case back to the Respondent Agency for further evaluation. A procedural history is in order.

Petitioner originally appealed the Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits because there was no eligible child in the household and by extension, the termination of Emergency Assistance ("EA") benefits because Petitioner was not a recipient of WFNJ benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On March 6, 2015, the Honorable Jeffrey Gerson, Administrative Law Judge adjourned the first scheduled hearing date. On March 9, 2015, the Honorable Gail M. Cookson, Administrative Law Judge, held an emergent hearing, took testimony, and admitted documents into evidence. On March 10, 2015, Judge Cookson issued an Initial Decision which reversed the Agency determination and directed the Agency to grant specific retroactive and prospective WFNJ/TANF and EA benefits.

On March 19, 2015, this office issued a Final Agency Decision ("FAD") in the original matter. Having found good cause for Petitioner's absences from a work activity, a sanction on Petitioner's WFNJ/TANF grant was ordered rescinded. See Exhibit R-5 at 3. Judge Cookson's Initial Decision was modified, however, with regards to prospective EA benefits, as there had been no substantiation that Petitioner was, in fact, eligible for such benefits. *Ibid.* As such, the matter was remanded to the Agency to reevaluate Petitioner for prospective EA benefits.

Also on March 19, 2015, the Superior Court of New Jersey, Appellate Division, granted Petitioner's Emergent Motion for Leave to Appeal. See Exhibit P-3. The court directed the Agency to reinstate Petitioner's WFNJ/TANF and EA benefits pending the completion of the remand proceedings to the Agency as directed by this office's March 19, 2015, FAD. Ibid.

Despite the order of the Appellate Division to reinstate Petitioner's EA benefits, the Agency required Petitioner to complete a new application for EA benefits under the Housing Hardship Extension ("HHE") pilot program on March 24, 2015, see Exhibit P-1, and subsequently denied the application on that same date after execution of an affidavit by Petitioner that she was unable to work. See Exhibit R-7 at 2.

Petitioner then appealed that determination and an emergent plenary hearing was heard on March 26, 2015, before the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"). The ALJ took testimony and admitted documents into evidence. On March 27, 2015, the ALJ issued an Initial Decision which reversed the Agency's termination of Petitioner's WFNJ/TANF and EA benefits. See Initial Decision at 7. The ALJ ordered the Agency to provide Petitioner with WFNJ/TANF and EA benefits for February, March and April, 2015, and for the Agency to reassess Petitioner for continued eligibility for those programs. Ibid.

Exceptions to the ALJ's Initial Decision were filed by the Agency on March 30, 2015.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I hereby MODIFY the Initial Decision, REVERSE the Agency determination as to Petitioner's WFNJ/TANF benefits, AFFIRM the Agency's determination as to Petitioner's EA eligibility under HHE, with further direction as outlined below.

In regards to Petitioner's WFNJ/TANF benefits, in light of this office's prior decision to rescind the sanction, which served as the basis for the prior termination of Petitioner's WFNJ/TANF benefits, I find that the Agency has not established any further basis for the termination of those benefits at this time and based upon the record presented. Moreover, the Agency's Adverse Action notice dated March 24, 2015, does not address any further termination of those benefits.

With respect to EA benefits, I disagree with the ALJ's conclusion that Petitioner is eligible for a further extension of EA benefits at this time. Based upon the credible evidence presented in the record, it is clear that Petitioner has exhausted her 12-month lifetime limit of EA, as well as her two six-month extreme hardship extensions. See Exhibit R-1; see also N.J.A.C. 10:90-6.4. Therefore, the only

remaining program under which Petitioner is seemingly eligible to receive further EA benefits is HHE. As stated in the prior FAD in this matter, to qualify for HHE, a WFNJ/TANF recipient must be "employable and engaged or eligible to engage, in a WFNJ work activity [and] be willing to seek and accept full-time employment." See N.J.A.C. 10:90-6.9(b)(2)-(3). As further stated, if deferred from a work activity, EA benefits cannot be given under HHE. See Exhibit R-5. In addition to having a work deferral due to her third trimester of pregnancy, following the remand of this matter, Petitioner signed an affidavit that she is unable to work. See Exhibit R-7. Accordingly, I find that at the present time, Petitioner is not eligible for an extension of EA benefits under HHE.

As indicated above, by virtue of the order of the Superior Court of New Jersey, Appellate Division, Petitioner's WFNJ/TANF and EA benefits were reinstated. See Exhibit P-3. I disagree with the Agency's characterization that this matter is now a denial of EA benefits because the Agency caused Petitioner to complete a new extension application, despite the direction and order from the court. See Exceptions at 2. Rather, the reinstatement of the benefits by the Appellate Division will now require the Agency to properly terminate Petitioner's EA benefits. As such, I direct the Agency to provide Petitioner with timely and adequate notice of the termination, as required by N.J.A.C. 10:90-9.1.

Petitioner is without prejudice to reapply for further EA benefits under HHE if she is able to meet the regulatory criteria, as discussed above.

As Petitioner has an open case with the Division of Child Protection and Permanency ("DCP&P"), f/k/a DYFS, a copy of the Initial and Final Decisions in this matter will be forwarded to DCP&P to ensure the health, safety and welfare of Petitioner's children.

Accordingly, the Initial Decision is MODIFIED, the Agency determination as to Petitioner's WFNJ/TANF benefits is REVERSED, and the Agency determination as to Petitioner's eligibility for further EA benefits under HHE at the present time is AFFIRMED.

Signed Copy on File
at DFD, BARA

APR 15 2015

Natasha Johnson
Director