



State of New Jersey

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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 04207-18 A.B.

AGENCY DKT. NO. C255868007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. The Agency denied Petitioner WFNJ/TANF benefits because she has exhausted her lifetime limit of WFNJ/TANF benefits, and does not meet the eligibility criteria for an exemption from the lifetime limit. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 9, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On April 30, 2018, the ALJ issued an Initial Decision, which affirmed the Agency's action.

Exceptions to the Initial Decision were filed by Petitioner on May 11, 2018.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby REJECT the Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

Pursuant to N.J.A.C. 10:90-2.3(a), "eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual recipient." See also N.J.A.C. 10:90-1.1(d) ("Assistance benefits provided under WFNJ are time-limited and considered a temporary cash subsidy[.]"). However, an individual may receive additional months of cash assistance if he/she qualifies for an exemption to, or extension of, the time-limit, as set forth at N.J.A.C. 10:90-2.4 and 2.5, respectively.

Consistent with the WFNJ regulations, the goal of the Family Violence Option Initiative ("FVO") is to transition WFNJ recipients, who are victims of domestic violence, "from dependency on WFNJ [ ] cash assistance benefits to employment and self-sufficiency[.]" See N.J.A.C. 10:90-20.1(a). The FVO allows an individual to request the waiver of WFNJ program or time-limit requirements. See N.J.A.C. 10:90-20.1(b), -20.4(a)(2). The FVO does not authorize the provision of WFNJ benefits indefinitely based on an individual's history of domestic violence. See DFD Instruction ("DFDI") 12-12-05 (expressing that FVO "grants 'good cause' temporary waivers of WFNJ program requirements



to [WFNJ] applicants/recipients"). Any waiver under the FVO is based on need as determined by a risk assessment. See N.J.A.C. 10:90-20.2(a)(2)(iv), -20.6, -20.8, and DFDI 12-12-05. An individual is re-evaluated for their continued need for a waiver at least every six months or sooner depending on an individual's circumstances. See N.J.A.C. 10:90-20.8(c).

The record in this matter reveals that Petitioner has received 87 months of WFNJ/TANF benefits, and an additional 17 months of said benefits under the Supportive Assistance for Individuals and Families ("SAIF") program. See Initial Decision at 2; see also Exhibit R-1, and N.J.A.C. 10:90-2.20. Thus, Petitioner has exhausted her lifetime limit of WFNJ/TANF benefits in accordance with N.J.A.C. 10:90-2.3(a), and N.J.A.C. 10:90-2.20. Petitioner maintains that she is entitled to continue to receive WFNJ/TANF benefits because she is a victim of DV, and that the Agency failed to refer her for an FVO Risk Assessment. See Initial Decision at 2. However, the ALJ found that the Agency was not compelled to conduct an FVO risk assessment because the DV that Petitioner was referencing occurred years earlier, and there was no documentation of a past or present restraining order. Id. at 2, 3. Therefore, the ALJ concluded that the Agency's denial of WFNJ/TANF benefits was appropriate, and that Petitioner is ineligible to receive continued WFNJ/TANF benefits. Id. at 3. I respectfully disagree. Rather, based on Petitioner's testimony that she is a DV victim, and the fact that she has a history of DV, I find that the Agency should have referred Petitioner for an FVO risk assessment to determine her possible eligibility for a waiver of WFNJ/TANF time-limit requirements under the FVO Initiative. See N.J.A.C. 10:90-20.1, -20.4. It appears from the record that, at the time of her WFNJ/TANF benefits application, Petitioner had not been referred for an FVO risk assessment, although she had requested to see an FVO counselor. See Initial Decision at 2, 3; see also Exceptions. Therefore, I am remanding this matter to the Agency to immediately refer Petitioner for an FVO risk assessment, and to evaluate Petitioner's eligibility for a waiver of the WFNJ time-limit under the FVO Initiative in accordance with N.J.A.C. 10:90-20.1 et seq.

Accordingly, the Initial Decision is REJECTED, the Agency's action is REVERSED and this matter is REMANDED to the Agency to expeditiously reevaluate Petitioner's eligibility for an extension of EA benefits pursuant to the FVO Initiative as discussed above.

Officially approved final version.

**JUN 21 2018**

Natasha Johnson  
Director

