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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 11429-18 K.L.

AGENCY DKT. NO. C700085007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner voluntarily quit employment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 9, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 10, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, 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, as outlined below.

N.J.A.C. 10:90-6.1(c)(3) states, in pertinent part, that EA benefits shall not be provided for a period of six months "when an actual or imminent state of homelessness exists as a direct result of the voluntary cessation of employment by the adult member without good cause." This includes situations in which an applicant has been discharged from employment due to an action or inaction on his or her part in violation of the employer's written rules or policies, or lawful job related instructions. See N.J.A.C. 10:90-1.15.

Here, the record reflects that Petitioner began employment on a provisional basis, and that upon receipt of her background check, indicating past criminal charges, Petitioner's employer ended her employment. See Initial Decision at 2-3. Petitioner appealed her termination, and despite the fact that she was never convicted of a crime, she was denied permanent employment because she was unable to secure the permanent credentials required for the job. *Ibid.*; see also Exhibit P-3. However, based on a one page document from the Department of Labor, stating that Petitioner had quit her position, the Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner had voluntarily quit employment. See Initial Decision at 3-4; see also Exhibits P-1, and R-1 at



6, and N.J.A.C. 10:90-6.1(c)(3). The ALJ found that Petitioner did not voluntarily quit employment, but rather, that her loss of employment was due to her inability to secure the necessary job credentials. See Initial Decision at 4. Further, the record indicates that Petitioner has been the victim of domestic violence ("DV"), and as a result, she left her permanent residence and currently resides in a shelter. See Initial Decision at 3. As such, the ALJ found that the Agency should have taken Petitioner's DV matter into consideration prior to its denial of EA benefits to Petitioner. *Id.* at 4; see also N.J.A.C. 10:90-6.1(c)(7). Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner, and the imposition of a six-month EA ineligibility penalty, was improper and must be reversed. See Initial Decision at 4-5; see also Exhibit P-1. I agree.

The ALJ also concluded that the Agency's denial of EA benefits to Petitioner was improper because it did not give her the opportunity, within ten days of receipt of the notice of sanction, to "either correct the event that led to the sanction or propose an alternate means of compliance." See Initial Decision at 4; see also Exhibit P-1, and N.J.A.C. 10:90-4.13. I respectfully disagree, and find that the ALJ's application of N.J.A.C. 10:90-4.13 is misplaced. Specifically, N.J.A.C. 10:90-4.13 relates to a sanctioning of WFNJ cash benefits due to a failure to comply with WFNJ program requirements, and is not controlling in EA benefits matters. Moreover, the six-month period of ineligibility for EA benefits, due to a voluntary quit of employment, is a penalty, not a sanction, and in accordance with regulatory authority, said penalty can neither be corrected, nor complied with. See N.J.A.C. 10:90-6.1(c)(3). The Initial Decision is modified to reflect this clarification.

By way of comment, if it has not done so already, the Agency shall refer Petitioner for a Family Violence Option Initiative risk assessment, in accordance with N.J.A.C. 10:90-20.1, et seq.

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

AUG 21 2018

Officially approved final version.

Natasha Johnson

Director

