



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
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 07221-19 Y.T.

AGENCY DKT. NO. C419843016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits, contending that she failed to comply with the WFNJ protocol, and terminated Petitioner's EA benefits because she was no longer a WFNJ cash benefits recipient, nor a Supplemental Security Income ("SSI") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 24, 2019, the Honorable Thomas R. Betancourt, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Also on June 24, 2019, 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 ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

In order to maintain eligibility for receipt of WFNJ benefits, the recipient must cooperate with, and participate in, the WFNJ work activity requirements. See N.J.A.C. 10:90-4.1(a). If a WFNJ benefits recipient fails to comply with their work activities without good cause, the recipient is subject to a progression of sanctions of 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(a), (b). However, good cause for failure to participate in a work activity or WFNJ program requirement includes a situation where a WFNJ benefits recipient "is certified by DFD to be physically or mentally unable to engage in an assigned WFNJ work requirement or to cooperate with a WFNJ program requirement." See N.J.A.C. 10:90-4.11(a)(1).

WFNJ benefits recipients who are unable to engage in regular work activities due to chronic illness and/or a physical or mental disability or impairment, may be deferred from the mandatory work requirement upon presentation of a 12-month MED-1 form. See N.J.A.C. 10:90-4.10(a)(2).



Here, the record reflects that the Agency invalidated Petitioner's MED-1 form on the basis that she was diagnosed with mental health issues, and therefore, the MED-1 form was required to be signed by a licensed psychiatrist, which it was not. See Initial Decision at 2; see also Exhibit P-1. On that basis, it appears that the Agency denied Petitioner a deferral from the mandatory WFNJ work activity, and in turn, terminated her WFNJ/TANF benefits for failure to comply with said work activity. See Initial Decision at 2-3; see also N.J.A.C. 10:90-4.1(a), -4.2(a), -4.10(a)(2), -4.11(a)(1), -4.13(a), (b). However, the ALJ found that regulatory authority does not require a psychiatrist, or psychologist, to sign such MED-1 form, but only that the MED-1 form be completed "by the attending physician (including a licensed or certified psychologist, as appropriate) or advance practice nurse." See Initial Decision at 3; see also N.J.A.C. 10:90-4.10(a)(2), (b). The ALJ also found that Petitioner's MED-1 form was signed by a duly licensed medical doctor and was properly completed, dated, and signed. See Initial Decision at 2; see also Exhibit P-1. Based on the foregoing, the ALJ concluded that the Agency had incorrectly invalidated Petitioner's MED-1 form, that Petitioner is eligible for WFNJ/TANF benefits, and that the Agency therefore improperly terminated Petitioner's WFNJ/TANF benefits. See Initial Decision at 3-4. Further, because the ALJ reversed the Agency's termination of Petitioner's WFNJ/TANF benefits, the Agency's termination of Petitioner's EA benefits was also reversed by the ALJ. Id. at 2-3; see also "Emergency Assistance Notification Form," and N.J.A.C. 10:90-6.2(a). I agree.

However, it should be noted that the Agency's adverse action notice indicates that Petitioner received a Federal tax refund in the amount of \$2,700 and a State tax refund in the amount of \$1,600, and on that basis, Petitioner may not be eligible for WFNJ/TANF and/or EA benefits. See "Emergency Assistance Notification Form." As this issue was not addressed in the Initial Decision, and there was no documentation in the record to substantiate the receipt of such tax refunds, this issue has not been addressed in this Final Agency Decision. However, based on the foregoing, I am remanding the matter to the Agency to confirm receipt of said tax refunds and then reevaluate Petitioner's eligibility for WFNJ/TANF and EA benefits, based on the verified tax refund amounts, on an expedited basis. Petitioner is advised that if her WFNJ/TANF benefits are then terminated due to the receipt of these tax refund monies, she may request another fair hearing on that issue alone.

By way of comment, it should also be noted that the eviction complaint in the record is dated March 13, 2019, and no Warrant of Removal was submitted into evidence, indicating that Petitioner is currently homeless or imminently homeless, thereby calling into question not only Petitioner's continued eligibility for EA benefits, but also why the case was heard on emergent basis.

Accordingly, the Initial Decision is hereby ADOPTED, the Agency's action is REVERSED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

JUL - 2 2019

Natasha Johnson
Director

