



State of New Jersey

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Assistant Commissioner

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 **00363-24 J.M.**

AGENCY DKT. NO. **C033492014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)**

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits because she failed to cooperate with the child support requirements necessary for receipt of benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 27, 2024, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 7, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, 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, and REVERSE the Agency's determination, and REMAND the matter to the Agency for action, based on the discussion below.

Pursuant to N.J.A.C. 10:90-16.2, the first step in the application process for WFNJ/TANF eligibility, is cooperation with the child support requirements set out in N.J.A.C. 10:90-16.3, and the good faith effort requirement set out in N.J.A.C. 10:90-16.4. N.J.A.C. 10:90-16.4(a) further states, in pertinent part, "Initial cooperation shall begin with the [WFNJ/TANF] applicant/recipient signing the affidavit of cooperation." See also N.J.A.C. 10:90-16.2(a)(1)(i). In addition, the Agency must inform the applicant of the good cause exceptions for not cooperating as outlined at N.J.A.C. 10:90-16.5.

Here, the record reflects that Petitioner applied for WFNJ/TANF benefits on August 3, 2023. See Exhibit R-1. On December 1, 2023, Petitioner sent a letter outlining her concerns that she and her children would be at risk of potential harm if the Agency sought to file a complaint for child support. See Exhibit R-2. Petitioner contends that she is entitled to a waiver from cooperation with the child support component of her application due to a history of domestic violence by the father of her child, who is a convicted felon, and was recently discharged from prison after serving time for an offense which requires compliance with "Megan's Law." See Initial Decision at 1, 2. On December 8, 2023, the Agency informed Petitioner via correspondence that she was being terminated from WFNJ/TANF for failing to cooperate with the Agency's child support unit. See Exhibit R-3.

By way of context, Petitioner has a restraining order against the father of her child and is fearful that any action taken against him, such as the filing of a child support complaint, will trigger a violent action towards her and/or her children. See Initial Decision at 2. The Agency contends that Petitioner already received the benefit of one domestic violence waiver, and since more time has elapsed since the last incident, the Agency testified that the father of her child was deemed "less of a threat." See Initial Decision at 2. It should be noted that it is unclear from the record presented as to



when the initial FVO waiver was granted. The Agency representative testified that an outside third-party vendor reviewed Petitioner's paperwork, but did not interview petitioner herself, and/or any law enforcement, and/or any mental health professionals, and further, the Agency representatives were unable to testify as to how the third-party vendor performed their risk analysis. See Initial Decision at 3. The ALJ was unsatisfied that no one from the third-party vendor was available to testify as to how the decision was reached as to not extending the good cause waiver. See Initial Decision at 3.

In addition, the ALJ concluded that the termination notice sent to Petitioner was deficient as it did not include specific reasons why the determination was made that the Family Violence Option would not be provided, nor explain why the determination was made by an outside vendor. See Initial Decision at 4.

The Work First New Jersey Act (N.J.S.A. 44:10-59d) established the Family Violence Option (WFNJ FVO) to help promote the goals of WFNJ and to ensure that WFNJ/TANF applicants or recipients who are victims of family violence are identified and provided with access to counseling/supportive services, and are not placed at risk of further violence while cooperating with WFNJ program requirements. As stated at N.J.A.C. 10:90-20.1(a), the objective of the WFNJ FVO Initiative is to safely move WFNJ/TANF applicants or recipients, who may be past or present victims of family violence, or are at risk of family violence, from dependency on WFNJ/TANF cash assistance benefits to employment and self-sufficiency, to the extent possible.

The WFNJ FVO grants "good cause" temporary waivers of WFNJ program requirements to WFNJ/TANF applicants or recipients. WFNJ FVO waivers must meet the definition of a federally recognizable good cause waiver to be granted for WFNJ/TANF recipients. See 45 CFR §260.50-59; see also N.J.S.A. 44:10-59d and N.J.A.C. 10:90-20. If necessary, certain WFNJ program requirements may be waived, including cooperation with child support. Agency staff must work with domestic violence agency staff to ensure that Risk Assessments are completed, and it is then the Agency's responsibility to grant or rescind waivers when WFNJ program requirements make it difficult for individuals or family members to escape domestic violence, unfairly penalize domestic violence victims or their family members, or place individuals or other family members at risk of further domestic violence. See N.J.S.A. 44:10-59d, see also DFD Instruction ("DFDI" 12-12-05).

If an FVO waiver is granted, the FVO Risk Assessment must be updated and the continued need for a waiver must be redetermined every six months. Each redetermination of program waivers requires the completion of a new WFNJ FVO Risk Assessment Referral/Outcomes Report. A new referral and Risk Assessment is required to ensure that WFNJ program waivers are based on need.

Based on the foregoing, the ALJ found that the Agency's termination of eligibility, without appropriate explanation, was arbitrary and capricious, and therefore, the Agency's termination was improper and must be reversed. See Initial Decision at 3. Based on an independent review of the record, I agree.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED, and the matter is REMANDED to the Agency for further consideration as to Petitioner's eligibility, as outlined above.

Officially approved final version. June 05, 2024

Natasha Johnson
Assistant Commissioner

