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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 **14951-24 S.B.**

AGENCY DKT. NO. **C131454020 (UNION COUNTY DIVISION OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's sanctioning of her Work First New Jersey/General Assistance ("WFNJ/GA") benefits, the termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency sanctioned Petitioner's WFNJ/GA benefits, contending that she failed to comply with the mandatory Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") program. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that she violated shelter placement rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. Beginning on October 25, 2024, and continued on October 28, 2024, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 29, 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 MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency regarding the sanctioning of Petitioner's WFNJ/GA benefits, based on the discussion below.

The rules of evidence are relaxed and hearsay is admissible in matters before the OAL, but "some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." N.J.A.C. 1:1-15.5(b).

In order to maintain eligibility for receipt of WFNJ benefits, a recipient must cooperate with, and participate in, the WFNJ work activity requirements, which includes cooperation with any required SAI/BHI program. See N.J.A.C. 10:90-2.2(a) (2), -4.1(d), 4-18, and -18.1. If a WFNJ benefits recipient fails to comply with their work activities, without good cause, the recipient is subject to a sanction resulting in a pro-rata reduction of WFNJ benefits for the first month. See N.J.A.C. 10:90-4.13(b). Thereafter, if the WFNJ benefits recipient is still non-compliant, without good cause, the WFNJ benefits will be suspended for one month. See N.J.A.C. 10:90-4.13(b)(1). If the non-compliance continues, the recipient's case will close the month after the suspension of WFNJ benefits. See N.J.A.C. 10:90-4.13(b)(2). Additionally, in accordance with N.J.A.C. 10:90-4.13(i)(1) through (6), pre-sanction, the Agency is required to reach out to the recipient through various mediums, and on more than one occasion, in an attempt to assist the recipient with coming into compliance.



In pertinent part, N.J.A.C. 10:90-4.13(e) states, "If a cash assistance case is closed due to a sanction, and the recipient is receiving [EA] benefits, then the [EA] will continue through the one-month closure sanction, if eligible. In order to receive [EA] during any sanction penalty period, the recipient must continue to be eligible for emergency assistance benefits."

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient's actions, without good cause, which may include, but are not limited to, the possession or use of drugs or alcohol on the premises. See N.J.A.C. 10:90-6.3(c)(4). However, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility's policies, such as visitation or curfew. See N.J.A.C. 10:90-6.3(e)(i), (iii); see also DFD Instruction 08-5-4 at 10. An adult EA benefits recipient who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, based on an independent review of the record, I find that the Agency, citing to the incorrect regulatory authorities set forth at N.J.A.C. 10:90-6.6(a), -6.3(c), terminated Petitioner's EA benefits on the basis that she had caused her own homelessness due to a violation of shelter rules, by allegedly consuming alcohol and marijuana on the premises, resulting in her termination from the shelter placement. See Initial Decision at 1-3; see also Exhibit R-1 at 7, 40. The record also reflects that the Agency relied upon a termination letter submitted by shelter personnel as the basis for its termination. See Exhibit R-1 at 40. However, I find that the Agency's reliance on that shelter letter was hearsay, as no one from the shelter placement, nor anyone from the Agency, with direct knowledge of the alleged incident, were present at the hearing to attest to the truth of the matter, and no sufficient corroborating documentary evidence was provided. See N.J.A.C. 1:1-15.5. Further, Petitioner disputed those allegations, and the ALJ found her credible when she testified that "she is on heavy doses of medication for Post-Traumatic Stress Disorder ("PTSD") ... which "makes her drowsy and appear drunk when she is not." See Initial Decision at 3. Based on the foregoing, I find that the Agency had failed to meet its burden of proof to show, by a preponderance of the credible evidence, that Petitioner had violated shelter rules. See Initial Decision at 2-4. Accordingly, on the basis discussed above only, I concur with the ALJ's conclusion that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. Id. at 4; see also Exhibit R-1 at 3-9. The Initial Decision, and the Agency's determination are modified to reflect these findings, and are also modified to reflect to the applicable legal basis in this matter to be N.J.A.C. 10:90-6.3(c)(4).

Additionally, the transmittal in this matter also indicates a contested issue pertaining to the sanctioning of Petitioner's WFNJ/GA benefits. That issue was not addressed by the ALJ in the Initial Decision. However, based on an independent review of the record, it appears that Petitioner's WFNJ/GA benefits were sanctioned, effective September 1, 2024, for failure to comply with the mandatory SAI/BHI program. See Exhibit R-1 at 1, 2. Therefore, in accordance with N.J.A.C. 10:90-4.13(b)(1), (2), Petitioner's WFNJ/GA benefits case is scheduled to close on December 1, 2024, unless she comes into compliance with SAI/BHI. As it is unclear from the record whether, or not, the Agency has reached out to Petitioner to assist with her SAI/BHI compliance requirement, during the sanction process, in accordance with, N.J.A.C. 10:90-4.13(i) (1) through (6), I am remanding the matter to the Agency to reach out to Petitioner to assist her with coming into compliance with SAI/BHI. Petitioner is advised that if she fails to come into compliance with the SAI/BHI program by December 1, 2024, her WFNJ/GA benefits case may be closed, and her EA benefits terminated. See N.J.A.C. 10:90-2.2(a)(2), -4.1(d), -4.13(e), -4-18, and -18.1.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's determination is REVERSED, and the sanction matter REMANDED to the Agency, as outlined above.

Officially approved final version. November 04, 2024

Natasha Johnson
Assistant Commissioner

