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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 01872-18 J.M.

AGENCY DKT. NO. C308383007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/General Assistance ("WFNJ/GA") benefits. The Agency denied Petitioner WFNJ/GA benefits contending that she had exhausted her 60-month cumulative lifetime limit of WFNJ benefits, and did not qualify for an exemption from that time limit. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 5, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 19, 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.

Pursuant to N.J.A.C. 10:90-4.10(a)(10), only "[t]he sole caretaker (parent/relative) of a severely disabled or seriously ill dependent child or a severely disabled or seriously ill family member" is eligible for a caretaker exemption. Specifically, N.J.A.C. 10:90-4.10(a)(10)(i) requires that a parent/relative provide a completed Confidential Medical Examining Physician's Report for Dependent Child or Dependent Adult (WFNJ-5S(DEP)) ("MED-5") form in order to qualify for the caretaker exemption.

Here, the record reflects that Petitioner has received 64 months of WFNJ cash benefits, and as such, she has exhausted her lifetime limit for said benefits. See Initial Decision at 2; see also Exhibit R-4, and N.J.A.C. 10:90-2.3(a). Petitioner is the parent of a 26-year old, severely autistic son, V.M. See Initial Decision at 2-3; see also Exhibit R-2. Petitioner applied for a caretaker exemption from the WFNJ benefits lifetime limit, and provided the Agency with the required MED-5 form. See Initial Decision at 2; see also Exhibit R-2, and N.J.A.C. 10:90-2.4(a)(2)(ii), -4.10(a)(10)(i). However, by notice dated January 8, 2018, the Agency denied Petitioner said exemption because it determined that Petitioner's November 11, 2017, MED-5 form was incomplete, as the doctor had failed to indicate if V.M. was available for part time work, what V.M.'s specific limitations were, what specific tasks had to be performed by Petitioner as



caretaker; and because the specific projected dates for the duration of V.M.'s disability was indicated as being from November 17, 2017, to November 17, 2017. See Initial Decision at 2; see also Exhibits J-1, R-1, R-2, and R-3. Petitioner testified that by the time her doctor had provided the Agency with a revised MED-5 form on March 2, 2018, her WFNJ/GA benefits case had been closed. See Initial Decision at 2; see also Exhibit P-1. Consequently, Petitioner requested a fair hearing. See Initial Decision at 2.

The ALJ in this matter found that Petitioner's November 17, 2017, MED-5 form (erroneously referred to as a MED-1 form by the ALJ throughout the Initial Decision) although incomplete in some respects, nevertheless contained all the essential information needed to establish Petitioner's eligibility for a caretaker exemption from the WFNJ benefits lifetime limit. See Initial Decision at 2-3; see also Exhibit R-2, and N.J.A.C. 10:90-2.4(a)(2)(ii). Moreover, the ALJ found that Petitioner had provided the Agency with a previous MED-5 form in 2016, indicating the same caretaker needs that presently exist, upon which the Agency had granted Petitioner an exemption from the WFNJ benefits time limit. See Initial Decision at 3. Additionally, the ALJ found that Petitioner's revised MED-5 form, provided to the Agency on March 2, 2018, is complete, and clearly indicates V.M. is disabled and in need of 24 hour caretaker assistance from Petitioner for the period of January 23, 2018, through January 23, 2019. See Initial Decision at 2-3; see also Exhibit P-1. Based on the foregoing, the ALJ concluded that the original November 17, 2017, MED-5 form contained all the essential information needed for the Agency to properly process Petitioner's WFNJ benefits application for approval. See Initial Decision at 5; see also Exhibit R-2. Therefore, the ALJ concluded that Petitioner is exempt from the WFNJ benefits lifetime limit, and is deferred from the WFNJ work requirement. See Initial Decision at 5; see also N.J.A.C. 10:90-2.4(a)(2)(ii), -4.10(a)(10)(i). Accordingly, the ALJ reversed the Agency's determination, and ordered the Agency to provide Petitioner with WFNJ/GA benefits, retroactive to the date of her WFNJ benefits application, November 9, 2017. See Initial Decision at 5; see also Exhibit J-1.

Although the ALJ erroneously refers to the MED-5 form as a MED-1 form throughout the Initial Decision, and finds that a MED-1 form is not required for a caretaker exemption from the WFNJ benefits lifetime limit, I find that the ALJ's legal analysis regarding the substance of the MED-5 forms that were admitted into evidence, and the ALJ's ultimate conclusion in this matter, to be correct. See Initial Decision at 2-5; see also Exhibits P-1, R-2. Further, although a MED-1 form is not required to establish a caretaker exemption, as opined by the ALJ, a MED-5 form is, in fact, required for a caretaker exemption. See Initial Decision at 4-5; see also N.J.A.C. 10:90-4.10(a)(10)(i). The Initial Decision is modified to reflect these clarifications.

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

Officially approved final version.

APR 27 2018

Natasha Johnson

Director

