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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 06273-18 K.K.

AGENCY DKT. NO. C691592007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, the denial of an extension of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's WFNJ/TANF benefits, denied Petitioner an extension of EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner voluntarily quit employment, without good cause. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 16, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open until May 18, 2018, to allow Petitioner the opportunity to submit additional documentation, and the record then closed. On June 5, 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.

"An adult recipient [of Work First New Jersey ("WFNJ") cash benefits] who voluntarily quits a job, without good cause, shall render the entire assistance unit ineligible for [WFNJ] cash assistance benefits for a period of two months from the date [the Agency] makes the determination that the recipient quit the job." See N.J.A.C. 10:90-4.13(g); see also N.J.A.C. 10:90-4.14(a).

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 to the entire household in which the recipient adult member voluntarily quits employment without good cause while receiving [EA benefits]," including 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.



Pursuant to N.J.A.C. 10:90-9.1(d)(11), timely notice may be dispensed with, but adequate notice shall be sent not later than the effective date of the action when "[a]n application for assistance is being denied and no assistance payment has been issued, or assistance had been granted based on immediate need."

Here, the ALJ found that the evidence relied upon by the Agency to determine that Petitioner had voluntarily quit her employment was incorrect and/or incomplete information. See Initial Decision at 2-3; see also Exhibits R-2, R-5. Although Petitioner's employer challenged Petitioner's application for Unemployment Insurance Benefits ("UIB"), claiming that Petitioner had been "separated for misconduct in connection with [her] work," the ALJ found that the email communication from Petitioner's employer did not say anything about Petitioner doing anything wrong, or about her voluntarily leaving her position. See Initial Decision at 3; see also Exhibit P-1, and "Gmail dated April 26, 2018." Rather, the communication thanked Petitioner for her interest in the position, stated that another candidate had been hired, but that her resume would be kept on file should an appropriate opportunity become available. See Initial Decision at 3; see also "Gmail dated April 26, 2018." Based on the foregoing, the ALJ concluded that Petitioner had not voluntarily quit employment, that she is eligible for EA benefits, and that the Agency's denial of EA benefits to Petitioner, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 4; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c)(3). I agree.

The ALJ also found that the Agency had not properly noticed Petitioner of a required 10-day "reconciliation period" prior to imposing a six-month EA ineligibility penalty, citing N.J.A.C. 10:90-4.12. See Initial Decision at 3. I respectfully disagree. Specifically, I find that the regulation relied upon by the ALJ is misplaced because the regulation cited is "Reserved" and no such regulation has yet been promulgated. Rather, it appears from the ALJ's discussion that the regulation intended to be cited is N.J.A.C. 10:90-4.13(i)(6)(ii). Ibid. However, that regulation is also misplaced as it relates to a sanctioning of WFNJ cash benefits, and the 10-day period a WFNJ benefits recipient is given to come into compliance with the required WFNJ work activity, not to a six-month EA ineligibility penalty. Ibid.; see also N.J.A.C. 10:90-6.1(c)(3). Further, the record is clear that Petitioner was properly noticed of the Agency's denial of a hardship extension of EA benefits, in accordance with N.J.A.C. 10:90-9.1(d)(11), as that regulation clearly states that a denial of benefits, as here, does not require 10-day advance notice, but rather, may be issued on the effective date of the denial. See Initial Decision at 3. The Initial Decision is modified to reflect this finding.

Finally, the transmittal in this matter indicates a contested issue regarding a termination of WFNJ/TANF benefits, which was not addressed by the ALJ in the Initial Decision. However, because I concur with the ALJ's finding that Petitioner did not voluntarily quit employment, I find that a sanctioning of, and/or a termination of, Petitioner's WFNJ/TANF benefits, on the basis of a voluntary quit, must be reversed. See Initial Decision at 4; see also N.J.A.C. 10:90-4.13(g), -4.14(a). The Initial Decision is also modified to reflect this finding.

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

Officially approved final version.

JUN 13 2018

Natasha Johnson
Director

