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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 03189-19 J.M.

AGENCY DKT. NO. C224715007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") benefits. The Agency terminated Petitioner's WFNJ/GA, contending that he had exhausted his lifetime limit for said benefits, and did not qualify for an exemption from the WFNJ time limit. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 7, 2019, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 8, 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 MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination, as discussed below.

"Eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual." See N.J.A.C. 10:90-2.3(a). "At the end of an individual adult recipient's 60 cumulative months of receipt of cash assistance, the assistance unit shall no longer be eligible to receive [WFNJ] assistance." See N.J.A.C. 10:90-2.3(a)(1). However, an individual may receive additional months of cash assistance if he/she qualifies for an exemption from, or extension of, the time limit, as set forth at N.J.A.C. 10:90-2.4 and -2.5, respectively. In relevant part, a recipient is exempt from the 60-month cumulative lifetime WFNJ limit if a "physical or mental impairment, defect or injury prevents him or her from engaging in full-time employment for a period of 12 or more months on a minimum of one WFNJ/MED-1, Examination Report." See N.J.A.C. 10:90-2.4(a)(3)(i).

Here, the record reflects that Petitioner has received 158 months of WFNJ/GA benefits, and as such, he has exhausted his lifetime limit for said benefits. See Initial Decision at 2; see also Exhibit R-6, and N.J.A.C. 10:90-2.3(a). By notice dated September 26, 2018, the Agency advised Petitioner that approval of his continued exemption from the WFNJ benefits time limit was pending receipt of a certain documents, particularly, a current 12-month MED-1 form, as the one in his file was due to



expire on October 31, 2018. See Initial Decision at 2-3; see also Exhibit R-1. The notice went on to advise Petitioner that failure to provide the requested documents within ten days would result in the termination of his WFNJ/GA benefits. Ibid. Petitioner failed to timely provide the 12-month MED-1 form as requested. See Initial Decision at 6. On November 20, 2018, Petitioner was again advised to provide, among other things, a current 12-month MED-1 form within ten days, and that failure to do so would result in the termination of his WFNJ/GA benefits. See Initial Decision at 2-3; see also Exhibit R-2. On December 7, 2018, Petitioner provided the Agency with a new 12-month MED-1 form; however, the Agency then requested "additional documents" concerning the medical diagnosis and prognosis provided therein, and when no such documentation was forthcoming, it rejected Petitioner's MED-1 form, denied Petitioner an exemption from the WFNJ benefits time limit and, consequently, terminated his WFNJ/GA benefits. See Initial Decision at 2-3; see also Exhibit R-3C. The ALJ found that, although Petitioner was aware that his WFNJ/GA benefits would be terminated if he did not timely provide the Agency with the 12-month MED-1 form as requested, the Agency had not provided Petitioner with timely and/or adequate notice of the actual termination of his WFNJ/GA benefits, as required by regulatory authority set forth at N.J.A.C. 10:90-9.1(a), (b), and therefore, the Agency's termination was improper. See Initial Decision at 3, 6-7; see also Exhibits R-1, R-2. I agree.

Further, the ALJ found that the Agency's failure to properly notice Petitioner of the termination rendered all other legal arguments moot, but nevertheless went on to address the Agency's failure to approve Petitioner's 12-month MED form and its consequent denial to Petitioner of an exemption from the WFNJ benefits time limit. See Initial Decision at 7-8. Although the ALJ's legal analysis of the matter relied upon the regulatory authority governing a deferral from the WFNJ work activity, rather than the regulatory authority governing an exemption from the WFNJ time limit, which is at issue here, the ALJ's ultimate conclusion is the same, and I will advance the following discussion as it applies to said exemption. Ibid.; see also N.J.A.C. 10:90-4.10(a)(2), (3).

Although the Agency has the responsibility to approve or deny a deferral from the WFNJ work activity, pursuant to N.J.A.C. 10:90-4.10(a)(2), no such responsibility or authority exists in the regulatory scheme governing exemptions from the WFNJ benefits time limit. See N.J.A.C. 10:90-2.4. Further, based on the plain language of the regulatory authority governing such exemptions, Petitioner is eligible for an exemption by virtue of his 12-month MED-1 form, with no additional medical documentation required, and that neither a medical consultant, nor an agency worker, are authorized to question the judgment of an attending physician where the submitted MED-1 form complies with the regulatory requirements. See Initial Decision 7-8; see also N.J.A.C. 10:90-2.4(a)(3)(i). Moreover, DFDI Instruction ("DFDI") No. 15-01-04, provides guidance to the Agency regarding MED-1 form reviews, and states in pertinent part, that the Agency staff "should not question any diagnoses, diagnostic codes, or the credentials of any healthcare professionals entered on the MED-1." See Initial Decision at 8. Stated differently, the Agency may only evaluate a MED-1 form for "completeness," or "fraud," not for medical accuracy or medical judgment. Ibid.; see also DFDI No. 15-01-04. Based on the foregoing, I find that Petitioner satisfies the definition of a "permanently disabled individual," who "shall be exempted" from the WFNJ benefits time limit pursuant to N.J.A.C. 10:90-2.4(a)(3), and is therefore eligible for continued WFNJ/GA benefits. See Initial Decision at 8; see also Exhibit R-3C. Accordingly, I concur with the ALJ's conclusion that the Agency's termination of Petitioner's WFNJ/GA benefits, and its denial of an exemption from the WFNJ benefits time limit, were improper and must be reversed. See Initial Decision at 9. The Initial Decision is modified to reflect this finding.

By way of comment, inasmuch as Petitioner was found eligible for WFNJ/GA benefits, and he is currently facing eviction, I advise Petitioner to apply for EA benefits, if he has not already done so, and direct the Agency to expedite its eligibility determination for said benefits, and to pay his back rent, if appropriate, so as to maintain Petitioner's subsidized housing. See Exhibit P-1.

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



Officially approved final version.

Natasha Johnson
Director

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