



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
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 08189-19 M.G.

AGENCY DKT. NO. C114112003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's sanctioning of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") 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/TANF benefits, contending that she and her boyfriend ("K.C.") failed to comply with the mandatory WFNJ work activity. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner failed to comply with her EA service plan ("SP") by failing to comply with shelter rules, and by failing to comply with the mandatory WFNJ work activity. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 10, 2019, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On July 17, 2019, the ALJ issued an Initial Decision, affirming 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 MODIFY the Agency's determination, based on the discussion below.

In order to maintain eligibility for receipt of WFNJ benefits, a recipient must cooperate with, and participate in, the WFNJ work activity requirements. See N.J.A.C. 10:90-2.2(a)(2), -4.1(d). 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).

Pursuant to applicable regulatory authority, EA benefits shall not be discontinued, due to a sanction for noncompliance with the work requirement, until one month after all WFNJ cash assistance has been



terminated and the case closed due to the failure to correct a sanction. See N.J.A.C. 10:90-4.13(e), -6.1(c)(5).

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, a violation of the shelter's health and safety policies. See N.J.A.C. 10:90-6.3(c)(5).

Here, in accordance with applicable regulatory authority, Petitioner and K.C. were required to participate in a WFNJ work activity, and said requirement was incorporated into their SP. See Initial Decision at 2; see also Exhibit R-1 at 26, and N.J.A.C. 10:90-2.2(a)(2), -6.6(a). On May 31, 2019, Petitioner and K.C. were notified that their WFNJ/TANF benefits would be sanctioned, effective July 1, 2019, for failing to comply with the mandatory work activity. See Initial Decision at 3; see also N.J.A.C. 10:90-4.13. Although the ALJ did not affirmatively address the transmitted issue regarding a sanctioning of Petitioner's WFNJ/TANF benefits, the ALJ did find that Petitioner and K.C. had failed to comply with the mandatory WFNJ work activity, without good cause. See Initial Decision at 4-5. Therefore, I find that the Agency's sanctioning of Petitioner's WFNJ/TANF benefits was proper and must stand. See Initial Decision at 4-5; see also Exhibit R-1 at 1-2, and N.J.A.C. 10:90-2.2(e), -4.1(d), -4.13. The Initial Decision is modified to reflect this finding.

Also, by notice dated May 28, 2019, the Agency terminated Petitioner's EA benefits, effective June 9, 2019, because she and K.C. had been sanctioned for non-compliance with the WFNJ work requirement and because they had violated shelter rules, in violation of their SP. See Initial Decision at 2-3; see also Exhibit R-1 at 1-10, 26, and N.J.A.C. 10:90-6.3(c)(5), -6.6(a). The ALJ agreed with the Agency's determination. See Initial Decision at 4-6. I respectfully disagree with the ALJ's conclusion. See Initial Decision at 5-6. Specifically, despite the fact that the SP requires Petitioner and K.C. to "comply with WFNJ," in accordance with applicable regulatory authority, referenced above, Petitioner remains eligible for EA benefits until one month after Petitioner's cash benefits have terminated and her case has closed, which, in this instance, would be September 1, 2019. See Exhibit R-1 at 26; see also N.J.A.C. 10:90-4.13(e), -6.1(c)(5), -6.3(a)(7)(ii). Based on the foregoing, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, on the basis of the sanctioning of her WFNJ benefits, were improper and must be reversed. See Initial Decision at 5-6; see also Exhibit R-1 at 6-10. The Initial Decision is also modified to reflect this finding.

Further, Petitioner's SP required her and K.C. to comply with shelter rules. See Initial Decision at 2; see also Exhibit R-1 at 26-27. The ALJ found that Petitioner failed to comply with the terms of her SP by keeping her shelter placement in a messy condition. See Initial Decision at 2, 4; see also Exhibit R-1 at 28-31, and N.J.A.C. 10:90-6.6(a). I agree with the ALJ's finding that Petitioner failed to abide by shelter rules in this instance. See Initial Decision at 5. However, in instances such as this, where a violation of shelter/motel rules are at issue, it is the type of violation which is controlling, not the SP. See N.J.A.C. 10:90-6.3(c),(e). Here, I find that Petitioner was terminated from her shelter placement for violating the shelter's health and safety policies, and therefore, is ineligible for EA benefits for a period of six months in accordance with N.J.A.C. 10:90-6.3(c)(5). See Initial Decision at 2, 4-5; see also Exhibit R-1 at 28-31. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Exhibit R-1 at 6-10. The Initial Decision, as well as the Agency's determination, are modified to reflect this finding with respect to the applicable legal basis in this case.

By way of comment, for further clarification, a sanction is generally imposed for failure to comply with a WFNJ work activity, and can be cured, and lifted, once a WFNJ benefits recipient comes into compliance. See N.J.A.C. 10:90-4.13. A penalty, or period of ineligibility, however, such as a six-month EA ineligibility penalty or other penalties imposed in the WFNJ regulations, cannot be cured. See N.J.A.C. 10:90-1.15 (imposing upon applicants for WFNJ benefits a 90-day period of ineligibility due to a voluntary cessation of employment), -4.14 (imposing upon WFNJ benefits recipients, a two-month period of ineligibility for voluntarily ceasing employment), -6.1(c)(3) (imposing a six-month period of



ineligibility for EA benefits for various reasons), -6.3(c) (imposing a six-month period of ineligibility for EA benefits due to termination from housing placements, without good cause), -6.6(a) (imposing a six-month period of ineligibility for EA benefits for failure to comply with one's SP).

By way of further comment, because Petitioner has been receiving continued assistance pending the outcome of the fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of the issuance of this Final Agency Decision.

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

Officially approved final version.

Natasha Johnson
Director

AUG 19 2019

