



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 00279-19 M.L.

AGENCY DKT. NO. C043186019 (SUSSEX COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that she failed to comply with her EA service plan ("SP") by failing to attend scheduled meetings, and by failing to report a change in household composition. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 23, 2019, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 30, 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 AFFIRM the Agency's determination, as discussed below.

Here, the record reflects that Petitioner executed an SP, wherein she agreed, among other things, to attend all programs and meetings scheduled by the Agency, and to report any changes in household composition. See Initial Decision at 2. However, Petitioner refused to attend a scheduled training program, refused to schedule an in-home meeting, and failed to attend a scheduled meeting with the Agency. Id. at 2-3; see also Exhibits J-3, J-5, and J-8. Although Petitioner testified that she refused to attend the training program because it was not the right program for her circumstances, and that she was in the hospital on the day that the meeting at the Agency was scheduled, the ALJ found that Petitioner was obligated to attend the scheduled program until such time as the Agency changed her assignment, and that she failed to provide proof that she indeed was at the hospital on the day that she missed her Agency meeting. See Initial Decision at 3-4. The ALJ also found that Petitioner failed to advise the Agency that her husband had moved back into her household. Id. at 4; see also Exhibit J-11. Based on the foregoing, the ALJ concluded that Petitioner had failed to comply with her SP, without good cause, and that the Agency's termination of her EA benefits, and the imposition of a six-month EA "sanction," were proper and must stand. See Initial Decision at 5-7; see also Exhibit J-10, and N.J.A.C. 10:90-6.6(a).

Although I agree with the ALJ's ultimate conclusion in this matter, I find that the ALJ's use of the term "sanction," in relation to Petitioner's six-month ineligibility period for receipt of EA benefits, to be misplaced. Rather, Petitioner's six-month period of ineligibility for EA benefits, due to her failure to comply with her SP, is a penalty, not a sanction, and in accordance with regulatory authority, said penalty can neither be corrected, nor complied with, unlike a sanction. See Initial Decision at 6-7; see also N.J.A.C. 10:90-6.6(a). The Initial Decision is modified to reflect this clarification.



By way of comment, for further clarification, a sanction is generally imposed for failure to comply with a Work First New Jersey ("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, Petitioner's six-month EA ineligibility penalty shall run from October 31, 2018, the effective date of the Agency's termination of EA benefits, through April 30, 2019. See Exhibit J-4 at 3; see also N.J.A.C. 10:90-6.6(a).

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

Officially approved final version.

Natasha Johnson
Director

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