



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716
TRENTON, NJ 08625-0716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

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

REMAND DECISION

OAL DKT. NO. HPW 03504-19 R.G.

AGENCY DKT. NO. S913459009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from Respondent Agency's denial of Supplemental Nutrition Assistance Program ("SNAP") benefits, on recertification; the termination of Work First New Jersey/General Assistance ("WFNJ/GA") benefits; and the denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's SNAP benefits and terminated his WFNJ/GA benefits, contending that Petitioner failed to attend his SNAP recertification and his WFNJ/GA redetermination interviews. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 23, 2019, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence. Prior to the beginning of the hearing, the parties agreed that EA benefits were not at issue, and as such, that issue need not be addressed. The record was left open until April 15, 2019, for post hearing submissions, and then extended to April 24, 2019, at the request of Respondent's counsel, and then closed on that date. On April 29, 2019, the ALJ issued an Initial Decision reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on April 30, 2019.

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 ADOPT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, as discussed below.

Here, the record reflects that Petitioner failed to appear at his SNAP benefits recertification interview and his WFNJ/GA benefits redetermination interview, both scheduled for November 13, 2018, and both required for continued SNAP and WFNJ/GA benefits eligibility. See Initial Decision at 3, 6; see also N.J.A.C. 10:87-6.20, -9.1(a), and N.J.A.C. 10:90-3.22(a). Petitioner also failed to appear at his rescheduled SNAP recertification interview on November 27, 2018. See Initial Decision at 4, 6; see also Exhibit P-7. As a result, in January 2019, the Agency denied Petitioner SNAP benefits and terminated Petitioner's WFNJ/GA benefits. See Initial Decision at 2; see also Exhibit R-4, and N.J.A.C. 10:87-9.2(c) (3) and N.J.A.C. 10:90-3.22(a). The ALJ found Petitioner unreliable in his testimony regarding his reasons for failing to attend his required interviews; nevertheless, the ALJ found that, although the



Agency had a right to terminate Petitioner's benefits for failure to attend the required interviews, it had failed to provide adequate notice to Petitioner prior to the denial of SNAP benefits, and the termination of his WFNJ/GA benefits. See Initial Decision at 4-5, 8; see also Exhibits R-1, R-2, and P-3 through P-8. Specifically, the ALJ found that the Agency had failed to provide Petitioner with a "Notice of Expiration," in accordance with N.J.A.C. 10:87-9.1(b) and (c), which specifically details the SNAP recertification requirements and procedures. See Initial Decision at 9-10. Further, the ALJ found that the Agency had failed to provide any notices to Petitioner regarding his WFNJ/GA benefits redetermination requirements and the resultant consequences for failure to comply. *Id.* at 6; see also N.J.A.C. 10:90-3.22(b), (c). Although the Agency contended that Petitioner was advised by its July 25, 2018, SNAP benefits approval notice that his SNAP benefits would expire on December 31, 2018, if he did not reapply by December 15, 2018, the ALJ found that notice to be insufficient. Moreover, the ALJ found that the record is devoid of adequate or timely notice to Petitioner of the denial of SNAP benefits, or the termination of his WFNJ/GA benefits. See Initial Decision at 8; see also N.J.A.C. 10:87-9.4 and N.J.A.C. 10:90-9.1.

Based on the record presented, the ALJ concluded that the Agency had failed to properly notice Petitioner of the denial of SNAP benefits and the termination of his WFNJ/GA benefits, and reversed the Agency's determination. See Initial Decision at 11, 13. In accordance with applicable regulatory authority, which states that SNAP benefits are approved for a "definite" period of time, or certification period, and at the end of a SNAP benefits recipient's certification period, a new application, interview and verification is required, the ALJ also concluded that the Agency shall complete a recertification of Petitioner's SNAP benefits eligibility, and if deemed eligible, provide Petitioner with SNAP benefits retroactive to January 1, 2019. See Initial Decision at 11; see also N.J.A.C. 10:87-6.20. Further, the ALJ concluded that the Agency shall complete a redetermination of Petitioner's WFNJ/GA benefits eligibility, and if deemed eligible, provide Petitioner with WFNJ/GA benefits retroactive to January 1, 2019. See Initial Decision at 13; see also N.J.A.C. 10:90-3.22. Therefore, I am remanding this matter to the Agency to reevaluate Petitioner's eligibility for SNAP and WFNJ/GA benefits, and if found eligible, to issue benefits retroactive to the beginning of his recertification and redetermination period. See N.J.A.C. 10:87-8.18 and N.J.A.C. 10:90-3.22(c), -9.16(c).

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, if Petitioner is found ineligible for SNAP and/or WFNJ/GA benefits, the Agency is to provide Petitioner with proper notice. Petitioner is advised that, should he be denied SNAP and/or WFNJ/GA benefits, he may request another fair hearing on said denial(s).

By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby ADOPTED, the Agency's determination is REVERSED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

Natasha Johnson
Director

MAY - 6 2019

