



State of New Jersey

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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 13104-19 T.B.

AGENCY DKT. NO. C091711003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and termination of Emergency Assistance ("EA") benefits. The Agency sanctioned, and ultimately terminated, Petitioner's WFNJ/TANF benefits, contending that she failed to comply with WFNJ protocol, and terminated Petitioner's EA benefits, contending that she was no longer a WFNJ benefits recipient and that she had exhausted her lifetime limit of EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 16, 2019, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 31, 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, 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, based on the discussion below.

Here, the Agency sanctioned, and ultimately terminated, Petitioner's WFNJ/TANF benefits, contending that she had failed to comply with the required Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") treatment program. See Initial Decision at 2; see also Exhibits R-1 at 1-5, R-5, R-6. Petitioner testified that she had not attended the SAI/BHI program because, while she was waiting for the bus to attend her June 2019, SAI/BHI meeting she was "attacked" by her daughter's father. See Initial Decision at 3-4. The record reflects that the police were called, but Petitioner was informed that no police report was necessary because her daughter's father did not threaten or make physical contact with Petitioner. *Id.* at 4. Petitioner further testified that she advised the Agency of this incident and explained that she could no longer attend the SAI/BHI meetings because she was fearful of a reoccurrence of that incident. *Id.* at 3-4. Nevertheless, the Agency terminated Petitioner's WFNJ/TANF benefits. *Ibid.* However, the ALJ found that Petitioner's June 2019, domestic violence incident established good cause for Petitioner's failure to comply with the SAI/BHI program, and that the Agency had a duty to refer her for a Family Violence Option Initiative ("FVO") assessment prior to its termination of her WFNJ/TANF



benefits. Id. at 7-8; see also N.J.A.C. 10:90-4.11(a)(4), -20.1. The Agency testified that it had not referred Petitioner for an FVO assessment because it had already done so in the past, had provided her with an FVO waiver from all WFNJ required activities at that time, and had removed her FVO waiver in March 2019, upon Petitioner's request. See Initial Decision at 5. The Agency further testified that in April/May 2019, it had determined that Petitioner did not qualify for an FVO waiver at that time because her FVO risk assessment had indicated that she was at low risk for domestic violence. Ibid. However, the ALJ found that the June 2019, domestic violence incident was a new occurrence, and as such, a new FVO assessment was needed to determine if Petitioner was required to participate in the WFNJ work activity, including SAI/BHI participation. Id. at 7-9; see also N.J.A.C. 10:90-20.1(a)(2), -20.6. Based on the foregoing, the ALJ concluded that the Agency had improperly sanctioned, and terminated, Petitioner's WFNJ/TANF benefits on the basis that she failed to comply with SAI/BHI requirement, without good cause. See Initial Decision at 9, 11; see also Exhibit R-1 at 1-5. I agree.

Further, on the basis that Petitioner's WFNJ/TANF benefits were found to be improperly terminated, the ALJ concluded that the Agency had improperly terminated Petitioner's EA benefits on the basis that she was no longer a WFNJ benefits recipient. See Initial Decision at 9; see also Exhibit R-1 at 6-9, and N.J.A.C. 10:90-6.2(a). The Agency also terminated Petitioner's EA benefits on the basis that she had exhausted her lifetime limit of said benefits. See Initial Decision at 9-10; see also Exhibits R-1 at 6-9, R-9, and N.J.A.C. 10:90-6.4(a), (b), (d). The ALJ found that, although Petitioner had exhausted her lifetime limit of EA benefits, in accordance with applicable regulatory authority, the Agency was required to first take into consideration Petitioner's allegations of domestic violence before it denied Petitioner an extension of EA benefits and terminated her EA benefits, which it did not do. See Initial Decision at 10; see also Exhibit R-3, and N.J.A.C. 10:90-6.4(f). Therefore, the ALJ concluded that without an FVO assessment, the Agency's termination of Petitioner's EA benefits was improper. See Initial Decision at 10-11. Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits must be reversed. Id. at 11; see also Exhibit R-1 at 6-9. I also agree.

Based on the ALJ's conclusions discussed above, I am remanding the matter to the Agency to refer Petitioner for an FVO assessment, and to evaluate Petitioner's WFNJ/TANF and EA benefits eligibility requirements based on the results of that assessment. See Initial Decision at 9-11; see also N.J.A.C. 10:90-20.1 et seq.

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

Officially approved final version.

DEC 13 2019

Natasha Johnson
Assistant Commissioner

