

## State of New Jersey

## **DEPARTMENT OF HUMAN SERVICES**

Chris Christie Governor

Kim Guadagno Lt. Governor Division of Family Development P.O. Box 716 TRENTON, NEW JERSEY 08625

Jennifer Velez Commissioner

Jeanette Page-Hawkins Director Tel. (609) 588-2000

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 16019-14 K.H.

AGENCY DKT. NO. C093068 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits for the months of August and September 2014. The Agency terminated Petitioner's WFNJ/TANF benefits because she failed to comply with her WFNJ work activity. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 15, 2014, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 14, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I REJECT the Findings of Fact and Conclusions of Law that are contained in the Initial Decision and AFFIRM the Agency's determination.

In order to maintain eligibility for receipt of WFNJ benefits, the recipient must cooperate with and participate in the WFNJ work activity requirements. If a WFNJ benefits recipient fails to comply with their work activities without good cause, the recipient is subject to a progression of sanctions on their WFNJ benefits, including a reduction in benefits, a suspension of benefits and ultimately, a termination of benefits. See N.J.A.C. 10:90-4.13; see also N.J.A.C. 10:90-2.2(e)(requiring imposition of sanction pursuant to N.J.A.C. 10:90-4.13 when a WFNJ recipient

20-90

HPW Number: 16019-14 Case Number: C093068

Page 2

fails to participate in work activities without good cause). Before a sanction can be imposed, the Agency must "determine whether good cause for noncompliance exists. ..." N.J.A.C. 10:90-4.13(h).

Good cause may exist for an absence from a WFNJ activity due to unsafe conditions of employment, illness or for "circumstances requiring the participant's immediate and personal attention, including but not limited to . . . a court appearance, . . . medical diagnosis or testing, and other similarly important matters." 10:90-4.11(a), (b)(2). However, the participant must notify "an appropriate person at the work activity of the need for an absence from a particular day" or provide appropriate documentation. N.J.A.C. 10:90-4.11(b)(2).

A WFNJ benefits recipient has 90 calendar days to appeal an Agency's adverse action. See N.J.A.C. 10:90-9.10. That time limit may not be expanded, unless extraordinary and extenuating circumstances exist, such as serious illness, as determined by DFD. See N.J.A.C. 10:90-9.10(b).

Here, the record demonstrates that Petitioner was assigned a WFNJ work activity to begin on May 19, 2014. See Initial Decision at 2. Thereafter, Petitioner incurred a sanction, effective July 1, 2014, for failure to comply with her WFNJ work activity. See id. at 3. Petitioner was sanctioned for two months, August and September of 2014. During those months, Petitioner did not receive WFNJ/TANF and EA benefits. Ibid. Additionally, the record demonstrates that the Agency provided proper notice to Petitioner of the sanction in July 2014. Ibid. Shortly thereafter, on or about July 24, 2014, Petitioner went to the Agency to "fix her sanction." See Exhibit R-1 at 1. At that time Petitioner signed a Sanction Compliance Agreement and an Individual Responsibility Agreement which would allow her to come into compliance with her WFNJ work activity requirement. Ibid. Further, the record shows that Petitioner was given many opportunities to come into compliance with her WFNJ work activity requirement, but failed to do so until November 26, 2014. See id. at 1-4. Subsequently, on December 5, 2014, the Agency removed the sanction effective October 20, 2014. See id. at 4.

Accordingly, I find that the Agency's termination of Petitioner's WFNJ/TANF benefits was proper because she incurred a sanction for failure to comply with her WFNJ work activity in May 2014. See id. at 1-4. Further, as the receipt of EA benefits is predicated on eligibility for cash benefits under the WFNJ program, and Petitioner's WFNJ/TANF benefits had been terminated due to the sanction, the Agency properly terminated Petitioner's EA benefits. See N.J.A.C. 10:90-6.1(a). Notably, Petitioner's WFNJ/TANF and EA benefits were resumed in October 2014. See Initial Decision at 3. Petitioner had until October 1, 2014, to appeal the imposition of the sanction and to seek restoration of her August and September WFNJ/TANF and EA benefits, but she did not.

20-90

Page 3

Regardless of the expiration of Petitioner's 90-day time frame within which to appeal, the ALJ considered whether the sanction in this matter should be rescinded as of the effective date of July 1, 2014, based upon good cause, which would then permit Petitioner to receive the August and September 2014 WFNJ/TANF benefits. This consideration was misplaced. Although Petitioner's testimony would lead one to believe that, but for her caseworker's unresponsiveness to her repeated attempts to contact him, she would have completed her work activity and would not have incurred a sanction, the record clearly indicates otherwise. See Initial Decision at 3; see also Exhibit R-1 at 1-4.

My independent review of the record in this matter clearly shows that Petitioner knew of her July 1, 2014, sanction and personally met with an Agency worker to resolve the matter on or about July 24, 2014. See Exhibit R-1 at 1. It was as of the effective date of the sanction that Petitioner's 90-day timeframe for appeal started to run. Regardless of whether or not Petitioner was able to reach the Agency prior to her sanction, she was given proper notice of the effective sanction date, but failed to timely appeal the July 1, 2014, sanction. Additionally, the fact that she made continued attempts to come into compliance with her WFNJ work activity does not toll the running of the 90-day timeframe for appeal.

Therefore, consideration of any basis for rescission of the sanction is now untimely and improper. See N.J.A.C. 10:90-9.10. Accordingly, I find that the Agency's termination of Petitioner's WFNJ/TANF and EA benefits for the months of August and September 2014 was proper.

Base on the foregoing, the Initial Decision is REJECTED and the Agency's action AFFIRMED.

JAN 26 2015

Signed Copy on File at DFD, BARA

Jeanette Page-Hawkins Director

٠,١