

## **DEPARTMENT OF HUMAN SERVICES**

Chris Christie Governor

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Elizabeth Connolly Acting Commissioner

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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

FINAL DECISION

OAL DKT. NO. HPW 8336-15 S.F.

AGENCY DKT. NO. C210758 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of her Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, as well as Emergency Assistance ("EA") in the form of Temporary Rental Assistance ("TRA"). The Agency terminated Petitioner's WFNJ/TANF and EA/TRA benefits because she had exhausted her cumulative lifetime limits for same. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 6, 2015, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On July 13, 2015, the ALJ issued her Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on July 15, 2015.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision and, having made an independent review of the record in this matter, I hereby REJECT the ALJ's Initial Decision and AFFIRM the Agency's determination.

Pursuant to the WFNJ regulations, "eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual recipient." See N.J.A.C. 10:90-2.3(a); see also N.J.A.C. 10:90-1.1(d) (stating that assistance benefits under WFNJ are time-limited and are to be considered a temporary cash subsidy). Nevertheless, an individual may receive additional months of cash assistance if he or she qualifies for an exemption to, or extension of, the time limit.

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The Supportive Assistance to Individuals and Families ("SAIF") Program assists eligible WFNJ recipients to become self-sufficient before they exhaust their 60-month WFNJ lifetime limit. See N.J.A.C. 10:90-2.20(a). This 24-month program offers intensive case management to individuals who have received 48 months of WFNJ benefits, who have complied with WFNJ requirements but have not become self-sufficient, and who do not appear to be exempt from the 60-month lifetime limit under N.J.A.C. 10:90-2.4. Ibid. SAIF participants are eligible for an extension of WFNJ cash benefits, social, and work support services for up to 12 additional months beyond the 60-month lifetime limit, or a maximum of 72 months. See N.J.A.C. 10:90-2.20(c) and (g).

One of the exemptions from the WFNJ cumulative lifetime limit is when the recipient is chronically unemployable. See N.J.A.C. 10:90-2.4(a)(4). Adults are chronically employable if they have completed participation in the SAIF program and have "demonstrated continued efforts to engage in education or employment activities but after 24 months of intensive intervention exhibit more than one barrier to employment," such as (1) lack of a high school diploma or GED; (2) limited English proficiency; (3) lack of skills or training; (4) a criminal record; (5) lack of work experience; (6) unavailable child care for a special needs child; (7) family problems of recipient or a dependent involving behavioral, DYFS, or legal issues; or (8) chronic health problems of recipient or dependent, with Division of Medical Assistance and Health Services ("DMAHS") review. See N.J.A.C. 10:90-2.4(a)(4)(ii)(2)(E).

In order to maintain eligibility for receipt of WFNJ/TANF benefits, the recipient must cooperate with, and participate in, the WFNJ work activity requirements. See N.J.A.C. 10:90-4.1(a)(2). Failure by a WFNJ/TANF recipient to cooperate with the WFNJ program, or to participate in the work activity, without good cause, will result in a sanction, meaning a loss of cash assistance. See N.J.A.C. 10:90-4.13(a).

The record reflects that Petitioner is a 27-year old single mother with three young children, ages 9, 5, and one month. See Initial Decision at 1. Petitioner has received WFNJ/TANF benefits since October 2006, and began receiving EA/TRA in May 2010. See Initial Decision at 2. Petitioner also receives Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits of \$649.00 per month, and the family's medical expenses are covered by Medicaid. Ibid.

Petitioner has exhausted her 60-month lifetime limit of WFNJ/TANF benefits in accordance with N.J.A.C. 10:90-1.1(d), having received 80 months of cash assistance. See Exhibit R-1. Petitioner has also exhausted her lifetime limit of EA/TRA, as she has received 55 months of same through June 2015. See Initial Decision at 3; see also N.J.A.C. 10:90-6.4(d) and Exhibit R-1.

At the fair hearing, Petitioner testified that she almost completed high school, but had to drop out in the twelfth grade before graduating. See Initial Decision at 3. Further, Petitioner asserted that she scored below a sixth grade level in her Test of Adult Basic.

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Education ("TABE") reading and math scores. Ibid. For these reasons, Petitioner contends that she could be classified as chronically unemployable and "exempted from all job training and/or work activities." Ibid. However, it should be noted that, under the WFNJ regulations, even those individuals deemed to be chronically unemployable, as Petitioner asserts she should be classified, must still comply with work activity requirements. See N.J.A.C. 10:90-2.4(a)(7).

Nevertheless, there is insufficient evidence in the record to support Petitioner's claim that she is chronically unemployable. Rather, the ALJ noted that Petitioner last worked approximately five years ago. See Initial Decision at 6. In addition, Petitioner presented no evidence of any illness, or medical or mental condition, preventing her from finding and maintaining employment. See Initial Decision at 3. Further, Petitioner offered no evidence of any efforts by her to find employment. Ibid.

In addition, Petitioner informed the ALJ that she "was not resistant to the discussion of her placement in SAIF, so her skills could be enhanced for finding employment." See Initial Decision at 4. However, Petitioner was already referred to, and has participated in, the SAIF Program, as evidenced by the Agency's Exceptions to the Initial Decision filed July 15, 2015 ("Agency Exceptions"), and I have taken those Exceptions into consideration here. See Agency Exceptions at 1-4. It is unclear whether the Agency representative testified at the hearing with regard to Petitioner's previous participation in SAIF. Regardless, Petitioner has surpassed the 72-month cumulative total of benefits envisioned by the SAIF program, as she has received 80 months of benefits to date. Additionally, Petitioner has not established eligibility for an exemption to, or an extension of, the lifetime limit which would make her eligible for continued WFNJ benefits. For these reasons, I find that the Agency appropriately terminated Petitioner's WFNJ benefits.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs. Also, a copy of the Initial and Final Decisions will be sent to the Division of Child Protection and Permanency ("DCP&P"), f/k/a the Division of Youth and Family Services ("DYFS"), to ensure that the health, safety, and welfare of Petitioner's children are protected.

Accordingly, the Initial Decision in this matter is REJECTED and the Agency's action in this matter is hereby AFFIRMED.

AUG 2 6 2015

Signed Copy on File at DFD, BARA

Natasha Johnson Director