



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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 14721-18 D.H.

AGENCY DKT. NO. C167674002 (BERGEN COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's sanctioning of his Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and the termination of Emergency Assistance ("EA") benefits. The Agency sanctioned Petitioner's WFNJ/TANF benefits, contending that he failed to complete the requirements of the Community Work Experience Program ("CWEP"), and terminated his EA benefits, because he was no longer a WFNJ cash benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 30, 2018, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 28, 2018, 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, based on the discussion below.

In order to maintain eligibility for receipt of WFNJ benefits, a recipient must cooperate with, and participate in, the WFNJ work activity requirements. See N.J.A.C. 10:90-2.2(a)(2). One type of work activity, specifically, CWEP, provides work and training to enable the recipient to adjust to, and learn how to function in, an employment setting. See N.J.A.C. 10:90-4.3(c). If a WFNJ benefits recipient fails to comply with their work activity, without good cause, the recipient is subject to a sanction resulting in a pro-rata reduction of WFNJ benefits for the first month. See N.J.A.C. 10:90-4.13(b). Thereafter, if the WFNJ benefits recipient is still non-compliant, without good cause, the WFNJ benefits will be suspended for one month. See N.J.A.C. 10:90-4.13(b)(1). If the non-compliance continues, the recipient's case will close the month after the suspension of WFNJ benefits. See N.J.A.C. 10:90-4.13(b)(2).

Pursuant to N.J.A.C. 10:90-6.1(c)(5) EA benefits shall not be discontinued due to a sanction for noncompliance with the work requirement until one month after all WFNJ cash assistance has been terminated.



Here, the record reveals that Petitioner's WFNJ/TANF benefits were sanctioned, effective August 1, 2018. See Initial Decision at 2; see also Exhibit R-5. On August 16, 2018, pursuant to a Settlement Agreement ("Agreement"), the parties agreed that the Agency would remove Petitioner's sanction and allow him to return to the CWEP. See Initial Decision at 2; see also Exhibit R-6. Also pursuant to the Agreement, the parties agreed that Petitioner would comply with his EA Service Plan ("SP"), originally dated September 29, 2017. See Initial Decision at 2; see also Exhibit R-8 at 1-4. On September 17, 2018, Petitioner executed an updated SP, wherein he agreed, among other things, to comply with WFNJ work activity requirements. See Initial Decision at 2; see also Exhibit R-8 at 5. The ALJ found that on several occasions, Petitioner did not complete the required number of daily hours at the assigned location. See Initial Decision at 2; see also Exhibits R-10, R-11. Additionally, the ALJ found that one of Petitioner's daily attendance sheets was procedurally deficient, in that neither the site supervisor, nor Petitioner, signed it to verify Petitioner's work hours. See Initial Decision at 2; see also Exhibit R-10. The ALJ also found that Petitioner's Work Activity Attendance Form contained conflicting information relating to the number of hours Petitioner had worked. See Initial Decision at 2; see also Exhibit R-12.

Later, the Agency assigned Petitioner to another work activity because he did not comply with the CWEP requirements at the first location. See Initial Decision at 2. Petitioner was still required to complete ten consecutive days at the work activity location, with seven hours of work activity per day, in order to have his sanction lifted. *Id.* at 2-3. However, the Agency, after reviewing Petitioner's attendance records at the new location, determined that Petitioner only completed seven consecutive days of work activity. *Id.* at 3; see also Exhibits R-13, R-14. The Agency determined further that Petitioner's attendance records were inconsistent as to his work start and end times, and that one of the entries did not bear the signature of a site supervisor. See Initial Decision at 3; see also Exhibit R-14 at 2. Based on the foregoing, the ALJ found that Petitioner had failed to comply with the mandatory CWEP work activity, without good cause, by not completing the number of required consecutive work days and hours. See Initial Decision at 3. Accordingly, the ALJ concluded that the Agency's sanctioning of Petitioner's WFNJ/TANF benefits was proper and must stand. See Initial Decision at 4; see also Exhibit R-5, and N.J.A.C. 10:90-2.2(e), -4.2(b)(1)(i), -4.13. I agree.

The record also reflects that the Agency terminated Petitioner's EA benefits, effective October 12, 2018, contending that he failed to comply with his SP by failing to comply with his WFNJ work activity, for which his WFNJ/TANF benefits were sanctioned. See Exhibit R-2; see also N.J.A.C. 10:90-6.6(a). I note, however, that regulatory authority states that a WFNJ benefits recipient's EA benefits shall not be terminated due to a sanctioning of WFNJ benefits, until one month after closure of the WFNJ case. See N.J.A.C. 10:90-6.1(c)(5); see also N.J.A.C. 10:90-4.13(e). Therefore, as I concur with the ALJ's conclusion that the Agency's sanctioning of Petitioner's WFNJ/TANF benefits was proper and must stand, and because Petitioner has been receiving continued assistance pending the outcome of the fair hearing, Petitioner is advised that his EA benefits shall terminate upon the date of the issuance of this Final Agency Decision. The Initial Decision is modified to reflect this finding.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

By way of further comment, the transmittal in this matter indicates an additional contested issue regarding a reduction of Petitioner's SNAP benefits due to a failure to cooperate, which was not addressed by the ALJ in the Initial Decision, nor was any documentation specific to a reduction of SNAP benefits entered into the record. However, as I find that Petitioner's WFNJ/TANF benefits were properly sanctioned due to non-compliance with the mandatory work activity, if Petitioner's SNAP benefits were reduced due to the same factual basis, then I uphold that reduction, and Petitioner is subject to the penalties as outlined in N.J.A.C. 10:87-10.16. If the factual basis for the reduction of Petitioner's SNAP benefits is not due to non-compliance with the work requirement, as discussed at length herein, then Petitioner may request another fair hearing on that issue alone.



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

Officially approved final version.

Natasha Johnson
Director

DEC 20 2018

