



*State of New Jersey*

**DEPARTMENT OF HUMAN SERVICES**

Division of Family Development

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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 1751-15 C.L.

AGENCY DKT. NO. C172146 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits under the Housing Hardship Extension ("HHE") pilot. The Agency denied Petitioner an extension of EA benefits under HHE because she incurred a sanction within the 12-month period prior to applying for HHE. On February 9, 2015, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 11, 2015, the ALJ issued an Initial Decision, which affirmed the Agency's action.

Exceptions to the Initial Decision were filed by counsel on behalf of Petitioner on February 17, 2015. Petitioner asserts that the appointment notice sent to her by the Agency was never received because her address was incorrect, and as such, the sanction notice sent to her at the same address was likewise not received. Therefore, Petitioner maintains that the sanction should be rescinded, making her eligible for the EA extension under HHE. See Exceptions at 1.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I MODIFY the ALJ's Initial Decision and AFFIRM the Agency's determination. Specifically, I am modifying the ALJ's legal analysis, as discussed below.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate

in work activities without disruption and continue on the path to self-sufficiency. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent part, that the individual must have "an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing."

The HHE pilot expands upon the granting of EA extensions for WFNJ/TANF recipients. N.J.A.C. 10:90-6.9. To qualify for HHE, the WFNJ/TANF recipient must be "employable and have been in compliance with the WFNJ work requirements, but have been unsuccessful in obtaining full-time employment, have exhausted their 12-month lifetime limit on EA and the two extensions, as appropriate, and are still in need of housing assistance to become self-sufficient." N.J.A.C. 10:90-6.9(a)(1). If eligible, the WFNJ/TANF recipient may receive up to an additional 12 months of EA. *Ibid.* However, N.J.A.C. 10:90-6.9(c)(1) sets a bright-line rule that a sanction within the 12-month period prior to applying for an extension under HHE disqualifies a WFNJ/TANF recipient from eligibility for the HHE pilot.

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).

The record shows that Petitioner was sanctioned for failing to keep an appointment with the Agency without good cause. See Initial Decision at 4; see also Exhibits R-4, R-5. Accordingly, a notice was sent to Petitioner advising her of the sanction, effective September 1, 2014, that would result in a reduction in her WFNJ/TANF benefits. See Exhibit R-6. Thereafter, Petitioner's WFNJ/TANF benefits were reduced for the months of August and September of 2014. See Initial Decision at 5. Further, the record indicates that Petitioner went into the Agency on October 14, 2014, presumably, to resolve her sanction issue, as her WFNJ/TANF benefits were reinstated, in full, in October of 2014. See Exhibit P-7; see also Initial Decision at 5.

The ALJ found that Petitioner failed to keep her appointment with the Agency because she did not receive timely notice of her scheduled appointment with the Agency, as the notice went to an incorrect address. See Initial Decision at 4. The appointment notice was dated July 11, 2014. Consequently, the ALJ concluded that the Agency's determination to deny Petitioner an extension of EA benefits under HHE was incorrect. See Initial Decision at 7. However, next, the ALJ concluded that because Petitioner failed to timely appeal the Agency's denial of HHE benefits, she was now precluded from doing so, thereby affirming the Agency's determination to deny her EA benefits under HHE. See *id.* at 7-8. I find that the ALJ's ultimate conclusion in this matter, affirming the Agency action, to be correct. The analysis, however, is misguided for the following reasons.

Specifically, Petitioner's application for an extension of EA benefits under HHE was denied on November 7, 2014. See Exhibit R-7. Therefore, Petitioner's appeal of the denial would not have been out of time. However, that is not the appeal that is at issue here. Rather, it is Petitioner's failure to appeal her September 1, 2014, sanction that is the determinative issue here. The record shows that Petitioner incurred a sanction, effective September 1, 2014, for failure to attend her scheduled appointment with the Agency. See Exhibits R-4, R-5, and R-6. Petitioner never appealed the sanction within the 90-day appeal period. See N.J.A.C. 10:90-9.10. Further, Petitioner requested a DFD waiver of the 90-day rule, and was denied. See Initial Decision at 5. Accordingly, I find that the record clearly shows that Petitioner incurred a sanction during the 12 months preceding her application for an EA extension under HHE and therefore, Petitioner is ineligible for an EA extension under HHE.

Notably, at the hearing, Petitioner does not contend that she never received notice of the sanction, dated August 14, 2014; rather she only contends that she never received the Agency's appointment notice. See Initial Decision at 2-4. Moreover, even if Petitioner did not receive the adverse action notice, I find that Petitioner had constructive notice of the sanction when her benefits were reduced on September 1, 2014.

Based on the foregoing discussion, I modify the Initial Decision and I find that Petitioner incurred a sanction within the 12-month period prior to applying for an extension under HHE, she failed to timely appeal the sanction, and therefore the sanction stands. Presuming Petitioner incurs no further sanctions, the earliest that Petitioner might be eligible to reapply for EA benefits under HHE would be September 2, 2015.

By way of comment, I find that the arguments asserted in Petitioner's Exceptions to be without merit. Counsel attempts to argue several bases for rescission of the sanction. These contentions are out of time. See N.J.A.C. 10:90-9.10(b). Accordingly, any arguments now made against the imposition of the sanction, or as a good cause defense to the sanction, are now untimely and improper. Furthermore, as I find that Petitioner had constructive notice of the sanction when her benefits were reduced, and it is clear that Petitioner did not appeal the sanction within the permitted timeframe, any argument asserting rescission of the sanction, is untimely and improper.

Accordingly, the Initial Decision is MODIFIED and the Agency's action is AFFIRMED.

MAR 02 2015

*Signed Copy on File*  
at DFD, BARA

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Jeanette Page-Hawkins  
Director