



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 9182-14 T.M.

AGENCY DKT. NO. C245278 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") under the Housing Hardship Extension ("HHE") pilot. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 4, 2014, the Honorable Joan Bedrin Murray, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On August 5, 2014, the ALJ issued an Initial Decision which affirmed the Agency determination.

Neither party submitted exceptions.

As the Director of the Division of Family Development, Department of Human Services, I independently reviewed the record and hereby MODIFY the Initial Decision and AFFIRM the Agency determination.

Petitioner receives Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits.

The Agency denied EA under the HHE pilot because Petitioner incurred three sanctions within twelve months of her application. Petitioner alleges, and the ALJ agreed, that she did not receive adequate notice of the two more recent sanctions.

The purpose of the WFNJ program is to "uniformly both inspire and require all able-bodied families with dependent children, single adults and couples without dependent children to WORK rather than to receive welfare." N.J.A.C. 10:90-1.1(a).

Unless deferred, all adult WFNJ recipients who are not attending school on a full-time basis must comply with "all aspects of the cooperation and participation provisions of the WFNJ work requirement." N.J.A.C. 10:90-4.1(a)(2).

Failure to actively cooperate with or participate in the WFNJ work activity requirements, without good cause, shall be considered non-compliance and shall result in the loss of cash assistance benefits in accordance with N.J.A.C. 10:90-4.13. N.J.A.C. 10:90-4.1(d). An applicant who incurred a sanction for non-compliance with the WFNJ work requirement in the previous twelve months is not eligible for EA under the HHE. N.J.A.C. 10:90-6.9(c)(1).

The Agency imposed sanctions in September 2013, and February and June 2014. Each time, Petitioner came into compliance and the Agency lifted, but did not rescind the sanction. Petitioner did not appeal the first two sanctions, and has not appealed the most recent sanction. N.J.A.C. 10:90-9.10.

The September 2013 sanction is sufficient basis for the denial of HHE. I address Petitioner's contention she did not receive notice of the latter two sanctions because the issue is relevant to a potential appeal of the third sanction and affects when Petitioner can apply for a HHE.

Implied notice is a presumption of fact which arises from certain circumstances which by their nature impose a duty of reasonable inquiry or diligence, the exercise of which would lead to actual notice of a specific fact.

Petitioner is a long-time WFNJ/TANF and EA recipient subject to the WFNJ work requirement. Petitioner has on many occasions applied for or been recertified for a variety of WFNJ cash benefits and EA. Petitioner also has individual responsibility and service plans. Accordingly, Petitioner regularly receives important written communications from the Agency by first-class mail. In order to facilitate these communications, Petitioner must complete and update contact information.

Based upon these circumstances, Petitioner has a duty to ensure the Agency has her correct contact information, or that she makes reasonable inquiry and exercises ordinary diligence to timely determine the status of her WFNJ cash benefit and EA cases. This is important because Agency actions may have a substantial adverse impact upon her present, and potentially her future WFNJ work activities, WFNJ cash benefit and EA. In addition, adverse Agency actions may trigger appeal rights which may be lost if not invoked with a certain, limited period of time.

Petitioner alleges she moved and did not receive notice of the latter two sanctions sent to her former address. However, Petitioner completed a contact form in February 2014 using her former address which the Agency in turn relied upon in mailing the adverse action letters. Equally important, Petitioner promptly contacted

the Agency after each reduction in her WFNJ/TANF cash assistance, well within the period of time available for her to appeal the relevant sanction.

I therefore find Petitioner received actual or implied notice of all three disqualifying sanctions within twelve months of her application for EA under the HHE. This finding means Petitioner is not potentially eligible for a HHE until twelve months from the February 2014 sanction. It also means that, if Petitioner appeals the June 2014 sanction, she cannot claim she did not receive notice. If Petitioner either does not appeal, or appeals and fails to establish good cause, she will not be potentially eligible for a HHE until at least twelve months from the most recent sanction.

For the foregoing reasons, I MODIFY the Initial Decision and AFFIRM the Agency determination.

AUG 19 2014

Signed Copy on File

at DFD, BARA

Jeanette Page-Hawkins
Director