
J.H. v. Warren County Welfare Board
Cite as 2 *N.J.A.R.* 393

J.H.,
Petitioner,
v.
WARREN COUNTY
WELFARE BOARD,
Respondent.

Decided April 25, 1980

Initial Decision

SYNOPSIS

Petitioner, an unmarried parent of two children, had her Aid to Families with Dependent Children grant reduced by a local welfare agency based on respondent's alleged failure to cooperate in establishing paternity.

Petitioner did not deny her failure to cooperate, but asserted that she had good cause to refuse to do so.

The administrative law judge found that petitioner's failure to cooperate in establishing paternity resulted from the abusive treatment which petitioner and her children had received from the father of the children. The judge pointed out that *N.J.A.C. 10:81-App. D-233.2* establishes standards for determining whether there is good cause for such failure to cooperate. Among those standards which establish good cause for failure to cooperate is a reasonable anticipation of physical or emotional harm to a child or parent. The judge found that petitioner had reasonable anticipation of physical or emotional harm to her and her children and concluded that good cause existed for her failure to cooperate in establishing paternity. Accordingly, the reduction in assistance was reversed.

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PROCEDURAL RECITATION

Petitioner, J.H., unmarried parent of two infants, contests the January 14, 1980, action of the Warren County Welfare Board reducing her Aid to Families with Dependent Children (AFDC) monthly grant from \$366 to \$255 effective March 1, 1980. The matter was referred to the Office of Administrative Law as a contested case, pursuant to *N.J.S.A. 52:14F-1 et seq.* A fair hearing was conducted at the Warren County Courthouse on

April 1, 1980. The Warren County Welfare Board expressed its willingness to comply with the requirement issued at the hearing, pursuant to *N.J.A.C.* 10:81-7.4(a), directing that benefits continue at \$366 monthly pending a final decision by the Director of the Division of Public Welfare.

SUMMARY OF RELEVANT TESTIMONY AND DOCUMENTARY EVIDENCE

Petitioner testified at the fair hearing that she is the unmarried mother of two children under three years of age, both of whom bear their father's family name. She testified that her reason for attempting to establish good cause for refusal to cooperate in obtaining support and establishing paternity for her children is the abusive treatment which she and her child had sustained from the father of her children. In this regard, she testified that on numerous occasions since 1977 he had:

1. intentionally violently overturned the crib her son was occupying;
2. beat her, leaving bruised flesh and ribs, necessitating brief periods of hospitalization;
3. physically abused and kicked her while pregnant with her second child;
4. broken furniture and windows resulting in eviction by their landlord;
5. pulled her about by her hair;
6. upset the baby's bathtub;
7. thrown the Christmas tree and presents and dishes in the home and out the picture window;
8. immersed her asthmatic daughter, who was suffering from a fever of 106 degrees, in a tub of cold water;
9. attempted to force feed her son until he choked on the food;
10. forcibly ejected her from the house; and
11. been frequently intoxicated.

She testified that she feels threatened by the children's father, who also has three children by his wife with whom he currently continues to live. She testified that it was for this reason that she entered and lived in a shelter for battered women for six months while she was pregnant with her second child and thereafter has established her home in another town.

Petitioner also testified that in January, she enrolled and currently continues to attend an adult evening school class in accounting to develop skills which will aid her in becoming gainfully employed.

Petitioner's mother testified that she believes the father of the children uses them as pawns to get his way and that he should not be allowed visiting privileges with the children or at her daughter's current residence. She testified also that she has not only observed his violent actions and the results

thereof, but also has been the object of his pushing and shoving and forced entry into her home.

When advised of her rights to present corroborative evidence in support of her "good cause" claim, petitioner had submitted to the Warren County Welfare Board letters, the substantive portion of which are set forth in synoptic form:

1. A letter by an assistant supervisor of DYFS, dated December 5, 1979, relates reports received in 1978 alleging physical violence in the home by petitioner's children's father. The letter recommends that because of his devious, unpredictable, irresponsible acts ". . . it would be beneficial then, (that he) remain unaware of (petitioner's) whereabouts."

2. A letter from the Jersey Battered Women's Service, Inc., stating that petitioner ". . . had been physically battered and also had her life threatened by the man she was living with."

3. Police dockets relating responses to calls regarding domestic disturbances involving petitioner, her children and their father.

The Income Maintenance Supervisor and the Child Support Paternity Supervisor testified that a written recommendation had been forwarded to the Warren County Welfare Board on the basis of their knowledge of the case and the evidence submitted that petitioner ". . . had sufficient reason for her 'Good Cause' claim."

Petitioner's good cause claim, however, was denied on January 29, 1980, by that Board without enunciated reasons. After petitioner was noticed of this action, a fair hearing request was filed.

ISSUE AND APPLICABLE REGULATIONS

At issue is whether petitioner has established that she has "good cause" for her admitted refusal to cooperate in obtaining support and establishing paternity of her four-month-old-son.

N.J.A.C. 10:81- App. D-233 provided that:

A client who claims to have good cause for refusal to cooperate has the burden of establishing the existence of a good cause circumstance.

The subsections of the regulations provide, *inter alia*, as follows:

N.J.A.C. 10:81-App. D-233.1 Client Requirements

To establish good cause, the client will be required to:

- a. Specify the circumstances which he/she believes provide sufficient good cause for noncooperation;
- b. Corroborate the good cause circumstance. . . .

N.J.A.C. 10:81-App. D-233.2 Good Cause Circumstances

Only when one of the following circumstances exists will the CWA determine that the client's cooperation is against the best interests of

the child and there is good cause for refusal to cooperate:

- a. The client’s cooperation is reasonably anticipated to result in physical or emotional harm to the child for whom support is to be sought;
- b. The client’s cooperation is reasonably anticipated to result in physical or emotional harm to the parent or parentperson of such nature or degree that it reduces such person’s capacity to care adequately for the child. . . .

N.J.A.C. 10:81-App. D-233.3 Physical and Emotional Harm

Physical and emotional harm must be of a serious nature in order to justify a finding of good cause. A finding for good cause for emotional harm may only be based upon a demonstration of an emotional impairment which substantially affects the individual’s functioning.

a. Anticipated Emotional Harm -When the good cause determination is based in whole or in part upon anticipated emotional harm to the child, parent or parent-person, the CWA will consider the following:

- 1) The present emotional state and the emotional health history of the individual;
- 2) The intensity and probable duration of the emotional impairment. . . .

N.J.A.C. 10:81- App. D-234 Proof of Good Cause Claim

The applicant/recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional situations, the CWA may allow a reasonable additional period of time if it determines the client requires additional time because of the difficulty of obtaining the evidence.

N.J.A.C. 10:81-App. D-234 Corroborative Evidence

The CWA will make a good cause determination within 45 days of the date of the claim by the client, based on the corroborative evidence supplied by the client, but only after it has examined the evidence and finds that it actually verifies the good cause claim. The CWA will make an entry in the case record regarding the decision and will document the basis of its decision. The claim may be corroborated by the following types of evidence:

- a.
- b.
- c. Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child, parent, or parent-person. . . .

FINDING AND CONCLUSIONS

Having considered the documentary and parol evidence entered into the

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record, none of which was controverted at the fair hearing, I **FIND** and **CONCLUDE** that petitioner, by a preponderance of credible evidence, has carried her burden of proof that she has demonstrated "good cause," within the contemplation of the applicable regulations set forth in *N.J.A.C.* 10:81-App. D-233 and its subsections, for refusing to cooperate in obtaining financial support and establishing paternity for children.

Accordingly, it is **ORDERED** that the action of the Warren County Welfare Board reducing petitioner's monthly AFDC grant from \$366 to \$255 effective March 1, 1980, be and is **REVERSED**. It is further **ORDERED** that, so long as she shall remain eligible for that amount, petitioner's AFDC grant shall be and is continued at \$366 monthly.

After reviewing this Initial Decision, the Division of Public Welfare on April 25, 1980 issued the following
Final Decision:

The initial decision in the case of the above-captioned, is accepted and incorporated herein.

The evidence is found sufficient to substantiate the petitioner had good cause for refusal to cooperate in fulfilling the requirements set forth in *N.J.A.C.* 10:81-App. D-230. Accordingly, the action to reduce assistance based on the imposition of a penalty of ineligibility for noncooperation is reversed.