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J.B. v. Newark  
Cite as 5 *N.J.A.R.* 493

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**J.B.,**  
**Petitioner,**  
**v.**  
**NEWARK DIVISION OF PUBLIC WELFARE,**  
**Respondent.**

Decided November 8, 1979

**Initial Decision**

**SYNOPSIS**

Petitioner requests relief from the decision of a local public welfare board terminating welfare assistance provided under the General Assistance Program for a period of 90 days due to his alleged failure to participate in the General Assistance Employability Program (GAEP). Under GAEP, recipients, who are classified as employable, must comply with work requirements.

The administrative law judge found that since petitioner was aware of the work requirements and had not established good cause for his refusal to comply with them, the penalty of termination of assistance for 90 days or until a willingness to work is demonstrated was appropriate.

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**ROBBINS, ALJ:**

Petitioner requests relief from the administrative determination of the Newark Division of Public Welfare terminating assistance under the program of General Assistance pursuant to *N.J.A.C.* 10:85-3.2. The matter was transmitted to the Office of Administrative Law for determination as a contested case pursuant to *N.J.S.A.* 52:14F-1 *et seq.*

At issue is the administrative determination to terminate assistance payments for a period of 90 days due to Petitioner's alleged failure to participate in the General Assistance Employability Program. *N.J.A.C.* 10:85-3.2 provides:

Persons who are not exempt . . . and who fail or refuse without good cause . . . to comply with applicable parts of this work requirements section, are considered to be unwilling to work, and are subject to penalty as indicated in (c) below.

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- (c) . . . The MWD will deny or terminate (with notice) all assistance to or for such person for the 90 day period or the remainder of it, or until the penalty is removed. . . .

The agency representative testified that petitioner was advised of his obligation to fulfill work requirements for a continuing receipt of assistance. On May 15, 1979, he arrived at his assigned work site one and one-half hours late. On May 29, 1979, he was given another opportunity to comply with work requirements and was scheduled to begin at another work site beginning on June 4, 1979. The agency had no record that petitioner ever appeared at the scheduled time and place on that or any subsequent date. Based on the foregoing, action was taken to terminate assistance for a 90 day period.

Petitioner stated that he went to the assigned place on June 4, 1979, but when he was unable to locate anyone who knew of his work assignment, he returned home. He made no further effort to contact the agency as he continued to receive assistance.

In testimony adduced during this proceeding petitioner alleged that he should not be classified as employable since he is needed at home to care for his mother who is ill and needs supervision. Notwithstanding this claim, the agency representatives testified that his presence was required in the home, and he had never claimed this as a reason for his failure to participate in the work program. The only reference made to his mother's condition was a notation on an application dated October 25, 1977, which stated that "client states that he stopped working in 1974 to take care of his father who recently passed. Now his mother needs care, so he's been trying to care for her and is now ready to find a job because his brother in Bloomfield is no longer able to support him."

Based upon the foregoing, I **FIND**:

1. Petitioner was classified as an employable person who is not exempt from general assistance work requirements.
2. Petitioner made no representation prior to this hearing that he should be exempt from such requirements because of his mother's condition.
3. When proper verification of his claims are presented regarding his need to be at home, re-evaluation of his employability status should be made.
4. Petitioner was aware of the requirement to comply with work requirements and was unable to establish good cause for his refusal to do so.

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5. The penalty for refusal without good cause to cooperate with work requirements is termination of assistance for a 90 day period or until the penalty is removed upon a demonstration of willingness to work.

Based upon the facts adduced at the hearing in this proceeding and the applicable regulations, I **CONCLUDE** pursuant to *N.J.A.C.* 10:85-3.2 that petitioner has incurred the penalty of ineligibility for failure to comply with work requirements.

Therefore, the action of the Newark Division of Public Welfare in terminating assistance to petitioner is **AFFIRMED**.

**After reviewing this Initial Decision, the  
Division of Public Welfare on November 20, 1979,  
issued the following Final Decision:**

Written comment from petitioner's legal representative taking exception to the initial decision is recognized. The evidence is not supportive of a finding that petitioner, prior to the fair hearing proceeding, had presented sufficient information essential to a determination whether or not failure to cooperate with work assignments was with good cause. Accordingly, the action terminating General Assistance is affirmed.

The agency is directed to provide petitioner an opportunity to reapply for, assistance and, pursuant to reapplication, process a decision on good cause for failure to participate in the General Assistance Employability Program.