



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

P.O. Box 716

TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
Director
Tel. (609) 588-2000

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

REMAND DECISION

OAL DKT. NO. HPW 12132-14 A.S.

AGENCY DKT. NO. C230530 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of her application for an extension of Emergency Assistance ("EA") under the Housing Assistance Program ("HAP"), N.J.A.C. 10:90-6.10. The Agency denied Petitioner's extension request as it asserts that Petitioner's Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits had been sanctioned. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 2, 2014, the Honorable Irene Jones, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and entered documents into evidence.

On October 3, 2014, the ALJ issued an Initial Decision reversing the Agency's determination. The ALJ noted that the assistance unit consists of Petitioner, two children, one of whom receives Supplemental Security Income ("SSI"), and the children's father, S.S. See Initial Decision at 2. While noting that the EA benefits Petitioner had been receiving was under HAP, the ALJ proceeded to analyze the case applying the standard for the Housing Hardship Extension ("HHE") pilot program. See *id.* at 2-3. While noting that it was unclear when S.S. came on to the assistance unit's WFNJ/TANF grant, the ALJ determined that the sanction S.S. had received for non-compliance with a work activity should be vacated, as S.S. had provided good cause for the non-compliance, and as such, an application for continued benefits under HHE should be considered. See *id.* at 3.

No Exceptions to the Initial Decision were filed.

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As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and hereby MODIFY the Initial Decision, and REMAND this matter to the Agency for further evaluation.

HAP is a pilot program which expands upon the granting of EA extensions. HAP was designed to provide additional housing assistance for up to twenty four months to WFNJ/TANF and Supplemental Security Income ("SSI") recipients, facing imminent homelessness, who are unemployable due to "disabilities that prevent them from finding employment." See 43 N.J.R. 2715(a); see also N.J.A.C. 10:90-6.10(a)(1). To be eligible for HAP, one or more criteria must be met. N.J.A.C. 10:90-6.10(a)(i).

The record in this matter indicates that Petitioner has previously received 42 months of EA, including 12 months lifetime limit, two hardship extensions of six months each, and 18 months under HAP. See Exhibit P-3. The record states that Petitioner is disabled and one of Petitioner's children is an SSI recipient and that it would appear that is the basis by which Petitioner had been receiving EA under HAP. See Initial Decision at 3.

The Agency's adverse action notice denies Petitioner a further extension under HAP, contending that the denial is due to a sanction imposed on the assistance unit. See Exhibit P-3. However, the plain language of the applicable HAP regulation, N.J.A.C. 10:90-6.10, does not refer to a sanction as a basis for denial of EA. As such, I am remanding this matter to the Agency for further evaluation of Petitioner's EA application and eligibility under the criteria of HAP, not HHE as concluded by the ALJ.

The transmittal in this matter indicates that a sanction for failure to comply is contested. Based upon the record before me, that sanction is the one imposed upon S.S., not Petitioner herself. The ALJ concluded that the credible testimony of S.S. demonstrated that he had provided good cause for the sanction, in that he had arrived late at the work activity, had asked for a new activity and was told to wait for a sanction letter with a new activity date. See Initial Decision at 2, para. 4. One month later, S.S. received a sanction letter advising him of the new activity, after which he completed the work activity. Ibid. Based upon his unrefuted testimony, the ALJ determined that the sanction should be vacated and Petitioner's benefits restored. See *id.* at 3. I note that while the date on the notice from the Agency to the assistance unit is June 12, 2014, it is date stamped as being sent out four days later on June 16, 2014. See Exhibit R-1 at 7. The adverse action notice advising Petitioner of the EA denial is dated September 5, 2014, but is unclear what date it was actually sent. See Exhibit P-3. The transmittal form indicates that Petitioner requested a fair hearing on September 18, 2014. While there may be a question if the appeal of the sanction was timely by a couple days under N.J.A.C. 10:90-9.10(b), the equities in this matter

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would weigh in favor of Petitioner, given the demonstrated time lag of the mailing of the Agency's first adverse action notice. Accordingly, I concur with the ALJ that good cause has been provided for the sanction imposed effective July 1, 2014, against S.S. and the sanction is hereby rescinded.

Based upon the foregoing, I hereby MODIFY the ALJ's determination in this matter. While I concur with the determination that the sanction against assistance unit member S.S. should be rescinded, I am REMANDING this matter to the Agency for appropriate evaluation of Petitioner's application for further EA under the criteria of HAP.

OCT 20 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director