



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 8855-14 L.S.

AGENCY DKT. NO. GA274299 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's termination of Emergency Assistance ("EA"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On September 12, 2014, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On September 26, 2014, the ALJ issued an Initial Decision which reversed 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 REVERSE the Initial Decision and AFFIRM the Agency determination.

Petitioner receives Work first New Jersey/General Assistance ("WFNJ/GA") and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits.

The Agency appropriately terminated EA in June 2014 after Petitioner exhausted his 12-month lifetime EA limit and applicable extreme hardship extension under N.J.A.C. 10:90-6.4. Petitioner was ineligible for an extension of EA under the Housing Hardship Extension pilot because he is not a WFNJ/Temporary Assistance for Needy Families recipient. N.J.A.C. 10:90-6.9(a). Likewise, Petitioner was in material part ineligible for an extension of EA under the Housing Assistance Program ("HAP") pilot because he did not then have a pending application for, or an appeal from the denial of a claim for Supplemental Security Income ("SSI") benefits. N.J.A.C. 10:90-6.9(a)(1)(i).

Petitioner has a Med-1 form for a 12-month period beginning February 1, 2014 which reflects diagnoses of bronchial asthma and lumbosacral pain. Petitioner's doctor does not consider him a candidate for SSI benefits.

On April 23, 2014, the Social Security Administration ("SSA") denied Petitioner's SSI claim. On April 24, Petitioner applied to the Agency for an extension of EA under the HAP pilot, and represented he had a pending SSI application. On May 12, the Agency determined the SSA previously denied Petitioner's SSI claim and accordingly denied EA.

Petitioner could have timely submitted an appeal to the SSA from the denial of his SSI claim by June 24, 2014, an action which arguably would have supported either the Agency's reevaluation of the EA application, or failing that, the ALJ's reversal of the Agency's adverse action.

Although Petitioner promptly appealed the adverse Agency action on May 15, 2014, he failed to submit a timely appeal to the SSA from the adverse determination of his SSI claim. Instead, Petitioner unreasonably delayed nearly four and a half months, and until the week before the OAL hearing, to submit an appeal to the SSA.

The record does not include a copy of Petitioner's good cause statement, or reflect that the SSA accepted his untimely appeal. Moreover, there is no evidence specific circumstances impeded Petitioner's efforts to pursue his claim, he was confused by the SSA's adverse action, or physical, mental, educational, or linguistic limitations prevented him from timely submitting an appeal request.

In short, there is insufficient credible evidence Petitioner, at the time of application, had a pending appeal from the denial of his SSI claim, and no evidence of good cause for his failure to timely submit an appeal request. Accordingly, there was insufficient credible evidence to support the finding Petitioner is eligible for EA under the HAP pilot.

Likewise, the Agency may have appropriately considered whether Petitioner's actions constituted a failure to cooperate with WFNJ program eligibility requirements without good cause. N.J.A.C. 10:90-2.2(d). Specifically, Petitioner continued to receive WFNJ/GA at a higher rate for at least two and a half months notwithstanding the fact he was not reasonably prosecuting an SSI claim.

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

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Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director