



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Director

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 13116-18 C.H.

AGENCY DKT. NO. C109425011 (MERCER COUNTY BOARD OF SOC. SVCS..)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits contending that she has exhausted her lifetime limit of EA benefits, plus all available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 13, 2018, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Also on September 13, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, AFFIRM the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Here, the ALJ found that Petitioner has received 31 months of EA benefits, and as such, Petitioner had exhausted her lifetime limit of EA benefits, plus all available extensions. See Initial Decision at 3, 6; see also Exhibits R-4, R-5, and N.J.A.C. 10:90-6.4(a), (b), (d). Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was proper and must stand. See Initial Decision at 6; see also Exhibit R-11. I agree. However, Petitioner contended that she was eligible for an extension of EA benefits because she is the victim of domestic violence ("DV"), and that she should have been granted a Family Violence Option ("FVO") waiver of the EA benefits lifetime limit. See Initial Decision at 3-4; see also Exhibits R-6, R-7, and N.J.A.C. 10:90-20.1, et seq. The ALJ found that the FVO waiver issue was not before the court, and as such, the validity of the Agency's denial of an FVO waiver to Petitioner was not addressed in the Initial Decision. See Initial Decision at 5-6. Nevertheless, the record reflects that the Agency had referred Petitioner for an FVO assessment in order to determine if she was eligible for an FVO waiver. See Initial Decision at 3; see also Exhibit R-9. At the time of the assessment, Petitioner was living with her mother. See Initial Decision at 4. Petitioner's FVO assessment indicated that Petitioner was at "low risk" for recurring DV while she resides with her mother, and therefore, Petitioner was not recommended for an FVO waiver of the EA benefits time limit. See Initial Decision at 3; see also Exhibit R-10. However, the record also indicates that as of August 24, 2018, Petitioner would no longer be able to continue to reside with her mother. See Initial Decision at 3; see also Exhibit R-3. Therefore, I am remanding the matter to the Agency to refer Petitioner for another FVO assessment, on an expedited basis, and to reevaluate Petitioner's eligibility for an FVO waiver of the EA benefits time limit based on the outcome of that assessment. See N.J.A.C. 10:90-20.1, et seq.



By way of comment, if it is determined that, as a result of another FVO assessment, Petitioner qualifies for a waiver of the EA lifetime limit, Petitioner is hereby put on notice that it is the Agency that shall determine the appropriate form of EA placement, which may include out of county placement, in order to ensure Petitioner's safety. See N.J.A.C. 10:90-6.3(a) (1). Petitioner is further advised that should Petitioner refuse any placement, without good cause, then EA benefits shall then terminate.

By way of further comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency ("DCP&P"), a copy of the Initial and Final Decisions in this matter shall be forwarded to DCP&P. See Initial Decision at 3.

Accordingly, the Initial Decision is hereby ADOPTED, the Agency's action is AFFIRMED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

SEP 19 2018

Natasha Johnson
Director

