



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

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

FINAL DECISION

OAL DKT. NO. HPW 11521-18 K.J.

AGENCY DKT. NO. C011674018 (SOMERSET 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 extreme hardship extensions, and does not qualify for an extension of EA benefits under the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 14, 2018, the Honorable Elia A. Pelios, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On August 15, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that Petitioner lost her Section 8 housing in March 2016, due to non-payment of rent from July 2015, through March 2016. See Initial Decision at 2; see also Exhibit R-1 at 23-25. Thereafter, Petitioner applied for EA benefits, and began receiving said benefits from May 2016, through May 2018. See Initial Decision at 5; see also Exhibit R-1 at 13-17. As of May 2018, Petitioner had received 27 months of EA benefits, and as such, she has exhausted her lifetime limit, plus two six-month extreme hardship extensions. See Initial Decision at 2; see also Exhibit R-1 at 13-21, and N.J.A.C. 10:90-6.4(a), (b), (c). Petitioner was then denied an extension of EA benefits under PHASE by the Agency because in March 2016, she had lost Section 8 housing due to non-payment of rent. See Initial Decision at 2; see also Exhibit R-1 at 4-7, and N.J.A.C. 10:90-6.9(c)(3). The Agency acknowledged that, but for the loss of Section 8 housing, Petitioner was otherwise eligible for PHASE. See Initial Decision at 5.

In accordance with regulatory authority, a recipient who is otherwise eligible for EA benefits, shall not be eligible for the PHASE program if they have lost Section 8 housing due to non-compliance with Section 8 rules and regulations unless they can demonstrate good cause for their actions or inactions. See N.J.A.C. 10:90-6.9(c)(3). Although the ALJ could not determine from the record provided, if Petitioner had good cause back in March 2016, when she lost her Section 8 housing for failing to pay her rent, nevertheless, the ALJ found that by virtue of the Agency's granting of EA benefits to Petitioner back in May 2016, it had determined that Petitioner had good cause for such loss of Section 8 housing in March 2016, and therefore, could not, now, find otherwise for purposes of denying EA benefits to Petitioner under PHASE. See Initial Decision at 5-6. Specifically, the ALJ opined that the Agency's determination not to impose the regulatory six-month EA ineligibility penalty back in May 2016, but rather to grant Petitioner EA benefits instead, was indicative of the Agency's finding that good cause had existed regarding Petitioner's loss of Section 8 housing. *Ibid.*; see also N.J.A.C. 10:90-6.1(c)(3)(ii). Based on the foregoing, the ALJ found Petitioner eligible for EA benefits under PHASE, and that the Agency's denial of EA benefits was improper and must be reversed. See Initial Decision at 6; see also Exhibit R-1 at 13-21, and N.J.A.C. 10:90-6.9. I agree.



No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version. **AUG 20 2018**

Natasha Johnson
Director

