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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 11864-18 K.S.

AGENCY DKT. NO. C092721015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she failed to comply with her EA service plan ("SP") when she was terminated her motel placement for having unauthorized visitors in her motel room, and that she had exhausted her lifetime limit of EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 20, 2018, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 21, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on August 22, 2018.

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 REJECT the ALJ's Initial Decision, and AFFIRM the Agency's termination of Petitioner's EA benefits, based on the discussion below.

Under the Work First New Jersey ("WFNJ") regulations, EA benefits are limited to 12 cumulative months during the lifetime of a case, plus limited extensions. See N.J.A.C. 10:90-6.4(a) and -6.4(b). A WFNJ/General Assistance ("WFNJ/GA") benefits recipient may qualify for up to an additional six months of EA benefits when an "extreme hardship" exists pursuant to the criteria set forth in N.J.A.C. 10:90-6.4(b)(1). See N.J.A.C. 10:90-6.4(c). Thus, the maximum amount of EA benefits that a WFNJ/GA benefits recipient may receive is 18 months.

Pursuant to N.J.A.C. 10:90-9.1(b), an Agency must provide both adequate and timely notice advising of a termination, denial or suspension of welfare benefits. Adequate notice is a written notice outlining the intended action and the reasons for the action. N.J.A.C. 10:90-9.1(a). Timely notice is defined as "a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action." N.J.A.C. 10:90-9.1(b)(1).



Here, the ALJ found that the stated basis for the Agency's termination of Petitioner's EA benefits was that Petitioner had failed to comply with her SP, and had failed to comply with her motel rules by having an unauthorized visitor in her room. See Initial Decision at 2 n.1; see also Exhibits R-1, R-13, and N.J.A.C. 10:90-6.3(e), -6.6(a), -9.1(b). Petitioner admitted to having an unauthorized visitor in her room, however, in accordance with the regulatory authority set forth at N.J.A.C. 10:90-6.3(e), the ALJ found that the Agency's termination of Petitioner's EA benefits was unwarranted because this was Petitioner's first and only eviction from an EA placement, and reversed the Agency's termination on that basis. See Initial Decision at 5-6; see also Exhibit R-1. While I agree with the ALJ's conclusion that the Agency's termination of Petitioner's EA benefits, on the basis of shelter rule violations, was improper, I nonetheless find that Petitioner has exhausted her lifetime limit of EA benefits, and on that basis, I find that Petitioner is ineligible for EA benefits. See Initial Decision at 5-6; see also N.J.A.C. 10:90-6.4(a), (b), (c).

Specifically, the Agency also terminated Petitioner's EA benefits because she had exhausted her lifetime limit of EA benefits. See Initial Decision at 7; see also Exhibits R-3, R-5, R-6, and N.J.A.C. 10:90-6.4(a). Although the ALJ found that it was factually undisputed that Petitioner had exhausted her lifetime limit of EA benefits upon receipt of her June 1, 2018, EA benefits, and that she had not made an application for an extreme hardship extension of those benefits, the ALJ also found that Petitioner was not timely and adequately noticed of this termination. See Initial Decision at 7; see also Exhibits R-5, R-6, and N.J.A.C. 10:90-6.4(a), (b), (c). Specifically, by notice dated June 13, 2018, the Agency advised Petitioner that her EA benefits had been terminated, effective on that same date, because she had exhausted her lifetime limit of said benefits. See Initial Decision at 7; see also Exhibit R-3. Based on that June 13, 2018, notice, the ALJ opined that the Agency's termination of Petitioner's EA benefits was improper because it had not given Petitioner the requisite 10-day notice prior to its termination of said benefits. See Initial Decision at 7-8; see also Exhibit R-3, and N.J.A.C. 10:90-9.1(b)(1). I respectfully disagree. Rather, I find that although the June 13, 2018, notice indicates that the effective date of Petitioner's EA benefits is June 13, 2018, the record reflects that Petitioner had received EA benefits on June 1, 2018, so the date upon which Petitioner would be adversely affected by the Agency's action would be July 1, 2018, thereby making the actual effective date for the termination of Petitioner's EA benefits, July 1, 2018, which is more than the 10-day notice required pursuant to N.J.A.C. 10:90-9.1(b)(1). See Initial Decision at 7; see also Exhibit R-1. Therefore, I find that the Agency's termination of Petitioner's EA benefits, on the basis that she had exhausted her EA benefits lifetime limit, was proper and must stand. The Initial Decision is rejected on this basis.

By way of comment, Petitioner is without prejudice to apply for an extreme hardship extension of EA benefits.

By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter. I note that although it appears from the record that Petitioner may have incurred two shelter rule violations, I concur with the ALJ's conclusion that the Agency failed to provide competent evidence to substantiate its claim that two shelter rule violations did indeed occur. See Initial Decision at 3-4; see also N.J.A.C. 1:1-15.5.

Accordingly, the Initial Decision is hereby REJECTED, and the Agency's termination of Petitioner's EA benefits, based on exhaustion, is AFFIRMED, as outlined above.

SEP 07 2018

Officially approved final version.

Natasha Johnson
Director

