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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 04446-18 R.D.

AGENCY DKT. NO. C682189007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") and Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/GA benefits contending that his earned income exceeded the maximum benefit payment level for receipt of said benefits, and terminated Petitioner's EA benefits contending that he had exhausted his 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 April 16, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 8, 2018, the ALJ issued an Initial Decision, reversing 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 MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

In relevant part, pursuant to N.J.A.C. 10:90-3.19(a)(13)(vi)(2), supplemental aid by other agencies or organizations, whether public or private, is considered exempt income provided that such aid is for a special purpose not within the function of the public assistance agency, for example, vocational rehabilitation.

Under the 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/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), (2). 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.

Here, the record reflects that Petitioner earns approximately \$350 per month, on average, working part-time for Fedcap, a mental health treatment program, in its therapeutic work program. See Initial Decision at 2; see also Exhibits P-1 at 20, R-3. Based on that earned income, the Agency terminated Petitioner's WFNJ/GA benefits, contending that said income exceeded the maximum benefit payment level for receipt of WFNJ/GA benefits. See Initial Decision at 2; see also Exhibit R-2, and N.J.A.C. 10:90-3.5(b). However, the ALJ concluded that Petitioner's earned income was exempt from consideration in determining his eligibility for WFNJ/GA benefits, and therefore, that the Agency's termination of Petitioner's WFNJ/GA benefits was improper and must be reversed. See Initial Decision at 3; see also Exhibit R-2. I agree; however, the regulation cited by the ALJ, and relied on in reaching that conclusion, is incorrect. See Initial Decision at 3. Rather, I find that Petitioner's earned income is exempt in accordance with N.J.A.C. 10:90-3.19(a)(13)(vi)



(2). The Initial Decision is modified to reflect the correct regulatory citation for Petitioner's exemption. See Initial Decision at 3.

The record also reflects that Petitioner has received 27 months of EA benefits, and as such, he has exhausted his lifetime limit of EA benefits, plus all available extreme hardship extensions. See Initial Decision at 2; see also Exhibit R-4, and N.J.A.C. 10:90-6.4(a), (b), (c). Nevertheless, the ALJ found Petitioner eligible for another extreme hardship extension of EA benefits in accordance with N.J.A.C. 10:90-6.4(b)(2). See Initial Decision at 3; see also N.J.A.C. 10:90-6.4(b)(2). Although I disagree with the ALJ's finding that Petitioner is eligible for another extreme hardship extension, because it appears from the record that Petitioner may have a 12-month MED-1 form, and does have a Supplemental Security Income ("SSI") appeal pending, I find that he may be eligible for continued EA benefits in accordance with the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program. See Initial Decision at 3; see also Exhibit P-1 at 19, and N.J.A.C. 10:90-6.9. Therefore, I am remanding the matter to the Agency to evaluate Petitioner for continued EA benefits under PHASE. See N.J.A.C. 10:90-6.9. The Initial Decision is also modified to reflect this finding.

By way of comment, Petitioner is advised that his total monthly household income, inclusive of his WFNJ/GA benefits and his Fedcap income, shall be counted in determining his EA benefits eligibility, as well as taken into account for purposes of his 30 per cent mandatory contribution towards his housing costs. See N.J.A.C. 10:90-6.1(c)(2), -6.5(a).

Accordingly, the Initial Decision in this matter is hereby MODIFIED, the Agency's determination is REVERSED, and the matter REMANDED to the Agency based on the discussion above.

Officially approved final version.

MAY 24 2019

Natasha Johnson
Director

