



State of New Jersey

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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 15914-18 L.O.

AGENCY DKT. NO. C069323003 (BURLINGTON COUNTY BD. 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 had exhausted her lifetime limit of EA benefits, plus all extreme hardship extensions; that she had failed to secure permanent housing within the 60-days required pursuant to the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program; and that she had failed to comply with her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 6, 2018, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 21, 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 ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, MODIFY the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Here, the record reflects that Petitioner had exhausted her lifetime limit of EA benefits, and was approved for an extension of EA benefits under PHASE. See Initial Decision at 3; see also Exhibits R-14 through R-16, and N.J.A.C. 10:90-6.4(a), (b), (c), -6.9. At the time Petitioner was approved for PHASE, she was living in, and continues to reside in, a shelter placement. See Initial Decision at 5; see also Exhibits R-5, R-7, and R-16. On August 17, 2018, Petitioner executed a PHASE agreement wherein she was advised that she was required to secure permanent housing within 60 days of entering into the PHASE agreement, by October 17, 2018. See Initial Decision at 2-3, 5; see also Exhibit R-12, and N.J.A.C. 10:90-6.9(a)(7). On October 16, 2018, Petitioner executed an EA SP wherein she agreed to seek, and to continue to search for, affordable housing. Id. at 3; see also Exhibit R-9, and N.J.A.C. 10:90-6.6(a). However, Petitioner had still not secured permanent housing by October 17, 2018, and



by notice dated October 18, 2018, the Agency terminated Petitioner's EA benefits, effective October 29, 2018. See Initial Decision at 3, 5; see also Exhibits R-1, R-6, and N.J.A.C. 10:90-6.6(a), -6.9(a) (7). PHASE regulatory authority only allows the Agency to pay for hotel/motel/shelter housing for a period of 60 cumulative days during a recipient's lifetime on PHASE. See Initial Decision at 4-5; see also N.J.A.C. 10:90-6.9(a)(7). The ALJ found that Petitioner had exhausted her lifetime limit of EA benefits, and had failed to procure permanent affordable housing, without good cause, in violation of her SP, and as required under PHASE. See Initial Decision at 5-6. Based on the foregoing, the ALJ concluded that Petitioner is ineligible for EA benefits under PHASE, and that the Agency's termination of Petitioner's EA benefits was proper and must stand. Ibid; see also Exhibits R-1, R-6 and N.J.A.C. 10:90-6-4(a), (b), (c), -6.6(a), -6.9.

I agree with the ALJ's conclusion that Petitioner is ineligible for EA benefits under PHASE for failing to secure permanent affordable housing within 60 days of the date of her PHASE agreement. See Initial Decision at 5-6; see also N.J.A.C. 10:90-6.9(a)(7). However, I do not find that Petitioner failed to comply with her SP. Ibid. Specifically, based upon an independent review of the record, I find that Petitioner's SP did not require her to secure permanent housing by October 17, 2018, as opined by the ALJ, but rather, it only mandated that she seek and continue to search for affordable housing, which Petitioner had testified to doing. See Initial Decision at 3-5; see also Exhibit R-9. The Initial Decision, and the Agency's determination regarding an SP violation, are modified to reflect this finding.

However, in light of the recently promulgated State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018, which extends EA benefits eligibility for certain categories of individuals, I am remanding this matter to the Agency, and directing that the Agency reevaluate Petitioner's eligibility for continued EA benefits in accordance with the new law. See DFD Instruction ("DFDI") 19-02-01.

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

Officially approved final version.

FEB 07 2019

Natasha Johnson  
Director

