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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

REMAND DECISION

OAL DKT. NO. HPW 01184-20 J.H.

AGENCY DKT. NO. C284492007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/General Assistance ("WFNJ/GA"), and Emergency Assistance ("EA"), benefits. The Agency denied Petitioner WFNJ/GA benefits, contending that she had exhausted her lifetime limit of said benefits, and denied Petitioner EA benefits because she was not a WFNJ or Supplemental Security Income ("SSI") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 28, 2020, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Also on January 28, 2020, 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 MODIFY the ALJ's Initial Decision, AFFIRM in part and REVERSE in part the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Pursuant to N.J.A.C. 10:90-2.3(a), "eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual recipient." See also N.J.A.C. 10:90-1.1(d) ("Assistance benefits provided under WFNJ are time-limited and considered a temporary cash subsidy[.]"). However, N.J.A.C. 10:90-2.4(a)(1) provides that a WFNJ/GA benefits recipient is exempted from the 60-month time limit if the recipient is sixty years of age or older.

An individual may reapply for, and receive, WFNJ cash assistance benefits, despite exceeding the lifetime amount of said benefits, if that individual qualifies for an extension of, or exemption from, the time limit as set forth in N.J.A.C. 10:90-2.4. See N.J.A.C. 10:90-2.4(a)(6).

In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent part, that the individual must have an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan to avoid their emergent situation. EA benefits shall not be provided for



a period of six months when an applicant "has caused his or her own homelessness, without good cause." See N.J.A.C. 10:90-6.1(c)(3).

Only WFNJ cash assistance recipients and SSI recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

Here, the record reflects that on January 13, 2020, Petitioner applied for WFNJ/GA benefits. See Initial Decision at 2; see also Exhibit R-1 at "Application and Affidavit for Work First New Jersey." It is undisputed that Petitioner, who is now sixty years old, received 72 months of WFNJ/GA benefits between the years 1999 and 2005, thereby exhausting the 60-month cumulative lifetime limit for WFNJ benefits. See Initial Decision at 2; see also Exhibit R-1 at GAAS payment history, and N.J.A.C. 10:90-2.3(a). Petitioner acknowledged that she has looked for employment, but has been unsuccessful because she cannot stand for long periods of time due to back pain. See Initial Decision at 2. The Agency denied Petitioner's application for WFNJ/GA benefits because Petitioner has exceeded the 60-month cumulative lifetime limit of cash assistance. See Initial Decision at 2; see also Exhibit R-1 at Adverse Action Notice dated January 13, 2020. Petitioner also applied for EA benefits, stating that she had been evicted for missing some rent payments. See Initial Decision at 2. The Agency denied Petitioner EA benefits because she was neither a WFNJ cash assistance, nor an SSI benefits recipient. See Initial Decision at 3.

The ALJ in this matter found that the Agency should reconsider its denial of Petitioner's WFNJ/GA benefits application in light of her age, and the possibility that her work history might deem her to be chronically unemployable. See Initial Decision at 3; see also N.J.A.C. 10:90-2.4(a)(1), -2.4(a)(6). Following an independent review of the record, I find that the Agency's denial of Petitioner's application for WFNJ/GA benefits, based on exceeding the 60-month lifetime limit, is improper and must be reversed due to Petitioner's age, which qualifies her for an exemption from the lifetime limit. See N.J.A.C. 10:90-2.4(a)(1). As such, the Agency's determination in this regard is reversed, and the matter is hereby remanded to the Agency for reevaluation of Petitioner's application for WFNJ/GA benefits.

With respect to Petitioner's application for EA benefits, the ALJ found that Petitioner had previously resided in subsidized housing with a monthly rent of only \$50 per month. See Initial Decision at 3. The ALJ also found that Petitioner could have kept her housing by working even just a few hours each month. Ibid. While the ALJ affirmed the Agency's determination to deny EA benefits, the ALJ opined that the Agency should also reconsider its determination in light of the fact that Petitioner may currently be eligible for WFNJ/GA benefits. See Initial Decision at 3-4; see also N.J.A.C. 10:90-6.2(a). While I concur with the ALJ's conclusion, affirming the Agency's denial of Petitioner's application for EA benefits, I find that Petitioner had the capacity to plan to avoid her eviction from public housing, where her rent responsibility was merely \$50 per month and, therefore, has caused her own homelessness. See Initial Decision at 3; see also N.J.A.C. 10:90-6.1(c). Additionally, because I find that Petitioner has caused her own homelessness, I hereby impose upon her a six-month period of ineligibility for EA benefits. See N.J.A.C. 10:90-6.1(c)(3). Petitioner's six-month EA ineligibility penalty shall run from the date of the denial of EA benefits, January 13, 2020, through July 12, 2020. See Exhibit R-1 at Adverse Action Notice dated January 13, 2020. The Initial Decision is modified to reflect these findings.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED in part as to the denial of EA benefits, REVERSED in part as to the denial of WFNJ/GA benefits, and REMANDED to the Agency for the reasons as outlined above.



FEB - 3 2020

Officially approved final version.

Natasha Johnson
Assistant Commissioner

