



## State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT  
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TRENTON, NJ 08625-0716

NATASHA JOHNSON  
*Assistant Commissioner*

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 11244-23 F.D.

AGENCY DKT. NO. C494511007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the denial of an extreme hardship extension of EA benefits. The Agency terminated Petitioner's EA benefits, contending that she had exhausted her 12-month lifetime limit of EA benefits, that she violated her EA service plan ("SP"), and that she had violated shelter rules. The Agency denied Petitioner an extreme hardship extension of EA benefits, contending that she did not meet the criteria for such extension. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 26, 2023, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 27, 2023, the ALJ issued an Initial Decision, affirming the Agency's determinations.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of Petitioner, on October 31, 2023.

As Assistant Commissioner, 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, and MODIFY the Agency's determination, based on the discussion below.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a).

EA benefits shall not be provided to adult recipients of EA benefits who violate hotel/motel or shelter rules, including the violation of health and safety policies. See N.J.A.C. 10:90-6.3(c)(5).

EA benefits are limited to 12 lifetime cumulative months, see N.J.A.C. 10:90-6.4(a), plus limited extensions for an "extreme hardship." See N.J.A.C. 10:90-6.4(b). A Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient may qualify for a six-month EA extension if the Agency determines that a case of extreme hardship exists pursuant to N.J.A.C. 10:90-6.4(b)(1), (2). See N.J.A.C. 10:90-6.4(c). In the event the recipient's extreme hardship continues to exist at the expiration of the six-month extension period, an additional six months of EA may be provided. *Ibid.* Thus, the



maximum amount of EA benefits that a WFNJ/TANF cash recipient may receive is 24 months. While N.J.A.C. 10:90-6.4(b)(1) lists five eligibility criteria to be considered by the Agency, it should be noted the list is not exhaustive. See DFD Instruction 13-12-02 (clarifying that extensions “may be granted for additional reasons beyond those listed in [the] regulation...only after conferring with DFD”).

Here, I take official notice of the fact that the records of this office indicate that Petitioner, due to her ineligible alien status, is not part of the WFNJ/TANF assistance unit (“AU”), and as such, this is considered a “child only” case. See Initial Decision at 4; see also N.J.A.C. 1:1-15.2(a), N.J.R.E. 201(b) (4), and N.J.A.C. 10:90-2.8(a)(4), -2.10. As such, Petitioner is not subject to the execution of, nor compliance with, an SP. See Initial Decision at 3-6; see also Exhibit R-4, and N.J.A.C. 10:90-6.1(a) -6.6(a). Accordingly, I find that the Agency’s termination of Petitioner’s EA benefits due to an SP violation is misplaced. See Exhibit R-7. The Initial Decision and the Agency’s determinations are modified to reflect this finding.

Regarding the Agency’s termination of Petitioner’s EA benefits on the basis that she violated shelter rules, I concur with the ALJ’s finding that Petitioner had violated shelter rules, and the ALJ’s consequent conclusion that the Agency’s termination of Petitioner’s EA benefits was proper and must stand. See Initial Decision at 3-4, 6; see also Exhibits R-1 through R-3, and N.J.A.C. 10:90-6.3(c)(5). Further, the ALJ found that, although regulatory authority allowed for the imposition of a six-month EA ineligibility penalty in this instance, the Agency did not impose such penalty. See Initial Decision at 5; see also Exhibit R-7, and N.J.A.C. 10:90-6.3(c). The ALJ also did not impose a six-month penalty in this matter. Likewise, based on the particular circumstances of this case, I find that a six-month EA ineligibility penalty is not warranted. See N.J.A.C. 10:90-6.3(i)(1). The Initial Decision is also modified to reflect this finding.

Finally, I concur with the ALJ’s finding that Petitioner has exhausted her 12-month lifetime limit of EA benefits, and that the Agency’s termination of Petitioner’s EA benefits on that basis was proper. See Initial Decision at 2, 6; see also Exhibit R-7, and N.J.A.C. 10:90-6.4(a). However, based on the SP discussion above, I disagree with the ALJ’s conclusion that the Agency’s denial of Petitioner’s application for an extreme hardship extension was proper on the basis that it could not approve such application due to Petitioner’s SP violation. See Initial Decision at 6; see also Exhibit R-7. Rather, I find that while N.J.A.C. 10:90-6.4(b)(1) lists five eligibility criteria to be considered by the Agency, it should be noted that the list is not exhaustive. However, in this instance, it appears that the Agency’s denial of an extreme hardship extension to Petitioner was based solely on its determination that Petitioner did not meet any of the five enumerated criteria. See Initial Decision at 3-4, 6; see also Exhibit R-6. Nevertheless, as Petitioner, on her application for an extreme hardship extension of EA benefits, marked “Other” with no explanation of what those other circumstances may be, other than that she would be homeless if no extension was granted, I find that the Agency’s denial of an extreme hardship extension was proper. See Exhibit R-6. Regardless, as no six-month EA ineligibility penalty has been imposed herein, I find that Petitioner may reapply for an extreme hardship extension, giving her the opportunity to explain her particular circumstances with more specificity, and Petitioner is strongly advised to seek the assistance of Legal Services with the preparation and submission of her application. Further, the Agency is reminded that it may approve an extension of EA benefits based on circumstances outside of the enumerated criteria set out in N.J.A.C. 10:90-6.4(b)(1). The Initial Decision is further modified to reflect this finding.

By way of comment, Petitioner is advised that if she is again denied an extreme hardship extension of EA benefits, she may request another fair hearing on that denial.

By way of further comment, I have reviewed the Exceptions submitted on behalf of Petitioner, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency’s determination is MODIFIED, as outlined above.



Officially approved final version. November 02, 2023

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Natasha Johnson  
Assistant Commissioner

