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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 **07671-22 X.R.**

AGENCY DKT. NO. **C093277015 (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 had exhausted her lifetime limit of EA benefits, plus all applicable extensions, and did not qualify for an extension of EA benefits pursuant to the recently promulgated State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018 ("S866"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 20, 2022, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow Petitioner the opportunity to submit additional documentation. Said documentation was submitted on November 4, 2022. Following receipt of post-hearing submission on November 17, 2022, the record then closed. On December 1, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination, and remanding the matter to the Agency to reconsider Petitioner's eligibility for an additional six-month extreme hardship extension.

No Exceptions to the Initial Decision were received.

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

EA benefits are limited to 12 months, plus limited extensions for "extreme hardship" where the recipient has taken "all reasonable steps to resolve the emergent situation but the emergency nonetheless continues or a new emergency occurs, which causes extreme hardship to the family." N.J.A.C. 10:90-6.4; N.J.S.A. 44:10-51. Specifically, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient may qualify for an additional six months of EA when an "extreme hardship" exists. *Ibid.* 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 a WFNJ/TANF recipient may receive is 24 months.

Here, based on an independent review of the record, I make the following findings. I concur with the ALJ's finding that, at the time the Agency terminated Petitioner's EA benefits, effective August 31, 2022,



Petitioner had exhausted her lifetime limit of EA benefits, plus all applicable extensions. See Initial Decision at 2, 8; see also Exhibits R-1, R-2, R-3, and N.J.A.C. 10:90-6.4(a), (b). In its termination notice, the Agency advised Petitioner to apply for an extension of EA benefits pursuant to S866, also known as Emergency Assistance for Specific Groups (“EASG”), which extends EA benefits eligibility for certain categories of individuals, including, but not limited to WFNJ recipients who are the sole caretaker of a disabled or seriously ill child or family member, as documented by a twelve (12) month WFNJ 5S-DEP (“MED-5”) form. See Initial Decision at 2; see also Exhibits R-1, R-7. Thereafter, on September 22, 2022, Petitioner applied for an EASG extension of EA benefits. See Initial Decision at 2; see also Exhibit R-4. Contrary to the ALJ’s finding, I find that regardless of the fact that Petitioner marked “other” on her EASG application, the record in this matter makes clear that Petitioner is requesting an EASG extension of EA benefits as a full-time caretaker of a disabled child, and as such, a MED-5 form is required. See Initial Decision at 8-9; see also Exhibits R-4, R-7. The record indicates that Petitioner had provided the required MED-5 form to the Agency on October 11, 2022, however, the Agency had already denied Petitioner’s EASG application on September 29, 2022, contending that she had not provided the required documentation needed to determine her eligibility for said extension. See Initial Decision at 3, 6, 8; see also Exhibit R-6. The October 11, 2022, MED-5 form indicated that Petitioner’s child was only “temporarily disabled,” and that supervised full-time home care of her child was not needed, and as such, I find that said form would not have qualified Petitioner for an EASG extension. See Initial Decision at 4-6, 9; see also Exhibit R-7, and S866. Nevertheless, at the request of the ALJ, the record remained open to allow Petitioner to provide an updated MED-5 form. See Initial Decision at 2. The record indicates that on November 4, 2022, Petitioner’s updated MED-5 form was provided to the ALJ. Id. at 4; see also Exhibit P-3. Although that form now indicated that Petitioner’s child was “permanently disabled,” it still specified that Petitioner was not needed as the full-time caretaker for her permanently disabled child. See Initial Decision at 4, 9-10; see also Exhibit P-3. However, based on Petitioner’s credible testimony, which the record substantiates, I concur with the ALJ that Petitioner is indeed needed as a full-time, sole caretaker for her permanently disabled son, and as such, also concur with the ALJ’s ultimate conclusion that Petitioner is eligible for an extension of EA benefits under EASG. See Initial Decision at 4-6, 11; see also Exhibits P-1, P-2, R-5, R-7, and S866. Accordingly, I further concur with the ALJ’s ultimate conclusion that the Agency’s termination of Petitioner’s EA benefits, and its denial of an EASG extension of EA benefits to Petitioner, must be reversed. See Initial Decision at 11; see also Exhibits R-1, R-6. The Initial Decision is modified to reflect these findings.

Further, the ALJ found that if Petitioner can provide the Agency with proof that she has applied for Supplemental Security Income (“SSI”) benefits, that she may be eligible for another six-month extreme hardship extension. See Initial Decision at 11; see also N.J.A.C. 10:90-6.4(b)(2). However, in accordance with N.J.A.C. 10:90-6.4(d), and as substantiated by the documentary evidence in this matter, showing the total number of months of EA benefits Petitioner has received, I find that Petitioner already received the two allowable six-month extreme hardship extensions, and as such, she is not eligible for a third extreme hardship extension, regardless of proof that she has applied for SSI benefits. See Exhibit R-3. Therefore, I find that there is no need to remand the matter to the Agency, as ordered by the ALJ. See Initial Decision at 11. The Initial Decision is also modified to reflect this finding.

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

Officially approved final version. January 26, 2023

Natasha Johnson
Assistant Commissioner

