



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
Director
Tel. (609) 588-2400

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 8497-15 B.R.

AGENCY DKT. NO. C091699 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits under the Housing Hardship Extension ("HHE") pilot. The Agency denied Petitioner EA benefits under HHE because she owed five months of back rent. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 15, 2015, the Honorable Michael Antoniewicz, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 16, 2015, the ALJ issued an Initial Decision, which affirmed the Agency's action.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of Petitioner, on June 19, 2015.

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 REJECT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter back to the Agency based on the discussion below.

In the event a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient does not qualify for an "extreme hardship" extension, or has exhausted all of the "extreme hardship" extensions, the recipient may qualify for HHE, which expands upon the granting of EA extensions for WFNJ/TANF recipients. See N.J.A.C. 10:90-6.9. To qualify for HHE, the WFNJ/TANF recipient must be "employable and have been in compliance with the WFNJ work requirements, but

have been unsuccessful in obtaining full-time employment, have exhausted their 12-month lifetime limit of EA and the two six-month extensions, as appropriate, and are still in need of housing assistance to become self-sufficient." N.J.A.C. 10:90-6.9(a)(1). If eligible, the WFNJ/TANF recipient may receive up to an additional 12 months of EA benefits. Ibid. However, a WFNJ/TANF recipient who has received a sanction within the 12-month period prior to applying for HHE is ineligible for the program. N.J.A.C. 10:90-6.9(c)(1).

N.J.A.C. 10:90-6.3(a)(5) provides, in pertinent part, that payment shall be authorized up to any three calendar months of retroactive rental payments if it will prevent actual eviction or foreclosure. Payment for more than three calendar months of retroactive rental payments shall be made only under extraordinary circumstances. Ibid.

It appears from the record that Petitioner is a WFNJ/TANF recipient, has received 12 months of EA benefits, two six-month hardship extensions, 24 months of EA benefits under the Housing Assistance Program ("HAP") pilot, plus three months of unspecified EA benefits. See Initial Decision at 2. Therefore, if eligible, Petitioner appears to have nine months of EA benefits available to her under HHE. Additionally, the record indicates that Petitioner is five months behind in her rent, and is facing eviction. Ibid.; see also Exhibit P-1.

Here, the record indicates that Petitioner applied for an extension of EA benefits under HAP on March 27, 2015, and was denied because she failed to meet any of the criteria for HAP eligibility. See Initial Decision at 2; see also Exhibit R-2. Also, the record indicates that a fair hearing was scheduled regarding Petitioner's HAP denial, and the hearing was withdrawn on May 20, 2015, so that Petitioner could apply for HHE. See Initial Decision at 2; see also Exhibit R-4. Notably, at the time of the withdrawal, Petitioner already owed over three months of back rent. Thereafter, Petitioner applied for HHE and was denied on June 5, 2015, because she owed five months of back rent. See Initial Decision at 2; see also Exhibit R-1 at 1.

Based on the foregoing facts, I find that Petitioner was only two months behind in her rent when she applied for HAP, and although she was found to be ineligible for HAP, the Agency could have evaluated her for eligibility under HHE, for which she appears to have been eligible, and it cannot now find her ineligible for HHE because she is five months behind in her rent. Therefore, the Agency is directed to reevaluate Petitioner for HHE eligibility, on an expedited basis, and if found eligible, to provide her with payment of back rent, as well as prospective EA benefits under HHE, as remains available, pursuant to N.J.A.C. 10:90-6.9.

By way of comment, the ALJ's analysis erroneously relied upon N.J.A.C. 10:90-6.4(b) (extreme hardship extension of EA benefits), rather than the HHE regulatory criteria in N.J.A.C. 10:90-6.9.

Accordingly, the Initial Decision is REJECTED, the Agency's action is REVERSED, and the matter is REMANDED back to the Agency based on the discussion above.

Signed Copy on File
at DFD, BARA

JUL - 6 2015

Natasha Johnson
Director