



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625
(609) 588-2400

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
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 6116-15 J.T.

AGENCY DKT. NO. GA59710 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's termination of his Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency terminated Petitioner's EA/TRA because he exhausted his lifetime limit of EA and does not qualify for an extension. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 16, 2015, the Honorable Joan Bedrin Murray, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 17, 2015, the ALJ issued her Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the Initial Decision and the record in this matter and, having made an independent evaluation of the record, I hereby REJECT the ALJ's Initial Decision, AFFIRM the Agency determination, and REMAND this matter to the Agency for further action as set forth herein.

EA benefits are limited to twelve lifetime cumulative months, see N.J.A.C. 10:90-6.4(a), plus limited extensions for an "extreme hardship." A WFNJ/GA recipient may qualify for one 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). See N.J.A.C. 10:90-6.4(c). 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").

A WFNJ/GA recipient who has exhausted his lifetime limit of EA may also receive, if eligible, an EA extension under the Housing Assistance Program ("HAP") pilot. See N.J.A.C. 10:90-6.10. HAP is a pilot program designed to provide additional housing assistance for up to 24 months to WFNJ/GA and Supplemental Security Income ("SSI") recipients who are determined to be permanently disabled and are facing imminent homelessness. See N.J.A.C. 10:90-6.10(a)(1).

The record reflects that Petitioner is a WFNJ/GA benefits recipient, who has received 14 months of EA. See Initial Decision at 2. Because Petitioner's EA was due to expire on April 30, 2015, he visited the Agency on April 1, 2015, to complete an extension application. *Ibid.* In his application, Petitioner stated that he was not employed due to a long period of incarceration, but he was trying to receive training to re-enter the job market. See Initial Decision at 3. After reviewing Petitioner's application, the Agency representative prepared, and provided Petitioner with, written notice terminating his EA/TRA for the reason that he has exhausted his lifetime limit of EA and does not meet the criteria for a HAP extension. *Ibid.*; see also Exhibit R-3.

In her Initial Decision, the ALJ found that the Agency did not properly evaluate Petitioner for an extreme hardship extension under the regulatory criteria set forth in the WFNJ regulations. See Initial Decision at 4; see also N.J.A.C. 10:90-6.4(b)(1)(i) through (v). Moreover, because the list of criteria "is not intended to be exhaustive," the ALJ also found that the Agency did not confer with the DFD concerning any circumstances outside the listed categories that might apply to Petitioner. See Initial Decision at 4; see also N.J.A.C. 10:90-6.4(b)(1). Therefore, the ALJ concluded, Petitioner "was denied the opportunity to apply for the appropriate EA/TRA extension, namely, the Hardship Extension," and the Agency improperly terminated Petitioner's EA. See Initial Decision at 3-4.

However, for the following reasons, I REJECT the ALJ's conclusions and AFFIRM the Agency's determination in this case. First, Petitioner has been granted 14 months of EA and, therefore, has indeed exhausted his 12-month cumulative lifetime limit of same. See Initial Decision at 2; see also N.J.A.C. 10:90-6.4. Second, based upon the facts presented, Petitioner does not meet the criteria for HAP, as Petitioner is neither permanently disabled nor unemployable. See Initial Decision at 3. Third, it appears that Petitioner does not qualify for an extreme hardship extension because, although he testified that he is enrolled in a driving school to obtain a commercial driver's license, there is no evidence that Petitioner is in danger of losing employment or a bona fide offer of employment. See Initial Decision at 3; see also N.J.A.C. 10:90-6.4(b)(1)(i).

Nevertheless, because the Agency did not fully question Petitioner at the time of his application concerning relevant facts, including Petitioner's employment prospects, I hereby REMAND this case to the Agency for re-evaluation of Petitioner's eligibility for an EA extreme hardship extension.

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By way of comment, I note that the record indicates that Petitioner received 14 months of EA benefits as of April 1, 2015, see Exhibit R-2, and that Petitioner has received an additional three months of continued assistance pending the outcome of this matter, resulting in a total of 17 months of EA benefits. As outlined above, only one six-month EA extension is permissible as a WFNJ/GA recipient under the extreme hardship provision. See N.J.A.C. 10:90-6.4(c). Therefore, in the event that the Agency finds Petitioner to be eligible for an extreme hardship extension, Petitioner will only be eligible for one more month of EA benefits.

Based on the foregoing, the Initial Decision in this matter is hereby REJECTED, the Agency determination is AFFIRMED, and this matter is REMANDED to the Agency for further action as set forth above.

Signed Copy on File
at DFD, BARA

JUL 16 2015

Natasha Johnson
Director