



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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

FINAL DECISION

OAL DKT. NO. HPW 11320-15 K.T.

AGENCY DKT. NO. C385092 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of her application for an extension of Emergency Assistance ("EA") benefits in the form of retroactive rent. The Agency denied Petitioner's application because she has exhausted her lifetime limit of EA, plus all available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 10, 2015, the Honorable Jeffrey A. Gerson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 10, 2015, the ALJ issued his 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 record in this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby ADOPT the Initial Decision and REVERSE the Agency determination.

EA is limited to twelve lifetime cumulative months, plus limited extensions for an "extreme hardship." See N.J.A.C. 10:90-6.4(a). A recipient of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits may qualify for up to two six-month extensions of EA 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 the WFNJ regulations list five eligibility criteria to be considered by the Agency, it should be noted that the list is not exhaustive. See N.J.A.C. 10:90-6.4(b)(1); see also 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”).

The record reflects that Petitioner is a WFNJ/TANF recipient who has received in excess of 24 months of EA. See Initial Decision at 2. On September 11, 2014, Petitioner was granted an EA extension covering the period from October 1, 2014, through March 31, 2015. Ibid.; see also County of Essex Notification Form dated September 11, 2014. Thereafter, the Agency did not provide Petitioner with written notice advising that her EA would expire at the end of March 2015. See Initial Decision at 2. However, the Agency argues that the September 11, 2014, EA approval notice constitutes sufficient notice to Petitioner that her EA would terminate on March 31, 2015. Ibid.

At the fair hearing, Petitioner testified that she was unaware that her EA had ended on March 31, 2015, and she believed that her rent was being paid for April, May, and June 2015. See Initial Decision at 2. As a result, Petitioner’s landlord filed an eviction action for nonpayment of rent against her in July 2015. Ibid. Upon receipt of the eviction complaint, Petitioner applied for an EA extension. See Initial Decision at 3. On July 22, 2015, the Agency issued an adverse action notice denying Petitioner’s application, on the basis that she had exhausted her lifetime limit of EA, plus all available extensions. See Initial Decision at 2-3; see also County of Essex Notification Form dated July 22, 2015.

Based upon the foregoing, the ALJ found that Petitioner was entitled to receive notice from the Agency that her EA was terminating, as it would have enabled Petitioner to make alternate arrangements. See Initial Decision at 3. Because the Agency failed to provide such notice, the ALJ concluded, and I concur, that Petitioner is entitled to EA in the form of retroactive rental payments for April, May, and June 2015. Ibid.

Notwithstanding the above, the ALJ also ordered, and I agree, that payment of retroactive rent for those three months is contingent upon the Agency’s receipt from the landlord of proof that said payment will prevent Petitioner’s eviction. See Initial Decision at 3. If such proof is not received by the Agency, no retroactive rent shall be paid, and Petitioner will be ineligible for any additional EA because she has exceeded her 24-month lifetime limit of same. Ibid.

Accordingly, the Initial Decision is hereby ADOPTED and the Agency’s action is hereby REVERSED.

Signed Copy on File

at DFD, BARA

AUG 21 2015

Natasha Johnson

Director