



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 16832-14 L.G.

AGENCY DKT. NO. GA488774 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits and imposed a six-month penalty because she, purportedly, violated her service plan ("SP") and failed to disclose that a family member moved into her apartment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 26, 2015, the Honorable Jeffrey A. Gerson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 28, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

No exceptions to the Initial Decision were received.

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

Pursuant to N.J.A.C. 10:90-6.1(c)(2), as part of the determination of eligibility or continued eligibility for EA, the agency shall evaluate all potential contributions of support to the household, including income received by ineligible household members, particularly when determining the amount of temporary rental assistance ("TRA") to be provided.

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Here, the Agency did not contest Petitioner's testimony that she was in compliance with her SP. Accordingly, the ALJ found, and I concur, that the Agency improperly terminated Petitioner's EA benefits and improperly imposed a six-month penalty. See Initial Decision at 2. However, I modify the ALJ's decision to the extent that he directs the Agency to award Petitioner six months of EA benefits commencing October 15, 2014, based on the following discussion.

Specifically, Petitioner moved her son into her apartment, where he was living from May to August of 2014, and failed to notify the Agency of her change in circumstances, as required pursuant to N.J.A.C. 10:90-1.13. Since the amount of TRA to be provided is determined by evaluating all potential contributions of support to the household, and the Agency was never notified that Petitioner's son had moved into her apartment, it appears that an overpayment of EA benefits may have been made to Petitioner. Moreover, Petitioner's TRA benefits could not be used to house her son; rather, he was responsible for paying his share of the rent. As a result, any overpayment of EA benefits to Petitioner are subject to recoupment. See N.J.A.C. 10:90-3.21(a)(1)(An overpayment of WFNJ benefits, including EA benefits is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction ...").

Additionally, it is the Agency who shall determine the most appropriate form of EA benefits that are "required to address the need and authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided." N.J.A.C. 10:90-6.3(a)(1).

Based on the foregoing, the Initial Decision is modified to reflect that the Agency is to determine Petitioner's continued EA eligibility. Further, the matter is remanded back to the Agency to take action to recover any overpayment of EA benefits, pursuant to N.J.A.C. 10:90-3.21(a)(12), and reevaluate Petitioner for continued EA benefits.

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

Signed Copy on File
at DFD, BARA

MAY 20 2015

Natasha Johnson
Director