



State of New Jersey

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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

REMAND DECISION

OAL DKT. NO. HPW 16619-14 M.E.

AGENCY DKT. NO. C238551 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals the Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits because she had available funds to prevent homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 22, 2015, the Honorable Michael Antoniewicz, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence. On January 29, 2015, the ALJ issued an Initial Decision which affirmed the Agency determination based upon a finding that Petitioner did not meet the criteria for an "extreme hardship" extension of EA benefits.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I MODIFY the Initial Decision, MODIFY the Agency determination, and REMAND the matter to the Agency.

The purpose of EA is to meet the needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work related activities without disruption in order to continue on the path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA benefits are limited to 12 cumulative months, plus limited extensions for an "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(b); see also N.J.S.A. 44:10-51. Specifically, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient, such as Petitioner, may qualify for an additional six months of EA benefits 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 benefits may be provided. Ibid. Thus, the maximum amount of EA benefits that a WFNJ/TANF benefits recipient may receive is 24 months.

In the event a WFNJ/TANF benefits recipient does not qualify for an "extreme hardship" extension, or has exhausted all of the "extreme hardship" extensions, the recipient may qualify for an extension of EA benefits under the Housing Hardship Extension ("HHE") pilot program, which expands upon the granting of EA extensions for WFNJ/TANF benefits recipients. See N.J.A.C. 10:90-6.9. To qualify for an extension of EA benefits under the HHE pilot program, the WFNJ/TANF benefits 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 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 benefits recipient may receive up to an additional 12 months of EA. Ibid.

The Housing Assistance Program ("HAP") is another pilot program that expands upon the extensions of EA benefits. However, the HAP pilot program was designed to provide additional housing assistance for up to 24 months to WFNJ and Supplemental Security Income ("SSI") benefits recipients, facing imminent homelessness, who are unemployable due to "disabilities that prevent them from finding employment." See 43 N.J.R. 2715(a); see also N.J.A.C. 10:90-6.10(a)(1). To be eligible for an extension of EA benefits under the HAP pilot program, one or more criteria must be met. N.J.A.C. 10:90-6.10(a)(i). One of the criteria is that the recipient can demonstrate that they have "applied for and is either pending approval or appealing a denial of Retirement, Survivors and Disability Insurance ("RSDI") and/or SSI disability benefits, which shall be supported by a MED-1 form substantiating at least 12 months of disability." N.J.A.C. 10:90-6.10(a)(1)(i). The purpose of establishing that an individual is disabled for at least 12 months through a certified MED-1 form is to show that the individual is unable to engage in regular employment. See 43 N.J.R. 2715(a) and N.J.A.C. 10:90-4.10(a)(2). A WFNJ client may also be eligible for EA benefits under the HAP pilot program when "there is recent documentation of long-term medical or psychological problems, which indicates that the recipient is unlikely to ever secure and/or maintain employment." See N.J.A.C. 10:90-6.10(a)(1)(iii).

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The record in this matter reveals that Petitioner has exhausted her 12-month lifetime EA benefits limit under N.J.A.C. 10:90-6.4(a). Initial Decision at 2; Exhibit R-3. Furthermore, I agree with the ALJ to the limited extent he finds that Petitioner does not presently meet any of the enumerated criteria for an "extreme hardship" extension under N.J.A.C. 10:90-6.4(b). Initial Decision at 2-3; Exhibit R-2. I nevertheless respectfully modify the Initial Decision to the extent the ALJ further found that Petitioner is not eligible for any extension of EA benefits. Initial Decision at 2. Stated otherwise, the ALJ did not address, and the record does not support, the Agency's contention that Petitioner is not eligible for any extension of EA benefits because she had the available funds to prevent homelessness. Exhibit R-1.

Petitioner alleged facts consistent with possible eligibility for an extension of EA benefits under the HHE pilot program. Initial Decision at 2; Exhibit R-2. In contrast, Petitioner also applied for and alleged facts consistent with possible eligibility for EA benefits under the HAP pilot program. Exhibit R-2. Under the totality of the circumstances, I am not persuaded that the Agency in the first instance properly or appropriately evaluated Petitioner's eligibility under either the HHE or HAP pilot programs. I therefore remand the matter to the Agency to appropriately evaluate Petitioner's eligibility for an extension of EA benefits under those pilot programs.

In total, based upon the record presented, Petitioner is not presently eligible for an "extreme hardship" extension of EA benefits under N.J.A.C. 10:90-6.4(b). However, the Initial Decision is modified and the Agency's adverse action is modified to the extent they determined that Petitioner is ineligible for an extension of EA benefits under the HHE and HAP pilot programs. More broadly, the Agency did not establish that Petitioner had sufficient available funds to prevent homelessness. The matter is remanded to the Agency to appropriately evaluate Petitioner's eligibility for an extension of EA benefits under the HHE and HAP pilot programs and to rescind any period of ineligibility, if imposed. In addition, Petitioner may, without prejudice, reapply for an "extreme hardship" extension of EA benefits, subject to applicable eligibility criteria. In any instance, the Agency may, without prejudice, deny an extension of EA benefits based upon N.J.A.C. 10:90-6.1(c)(3)(5), subject to Petitioner's right to request a fair hearing.

Accordingly, the Initial Decision is MODIFIED, the Agency determination is MODIFIED, and the matter is REMANDED to the Agency.

Signed Copy on File
at DFD, BARA

MAR 26 2015

Jeanette Page-Hawkins
Director