



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 16464-14 R.S.

AGENCY DKT. NO. C060321 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's application for benefits because it contended that Petitioner had exhausted her lifetime limit and presented no proof of a new housing emergency. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 19, 2014, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On December 22, 2014, the ALJ issued an Initial Decision which reversed the Agency determination. The ALJ noted that Petitioner had attempted to file an application for EA benefits under the Housing Hardship Extension ("HHE") and/or the Housing Assistance Program ("HAP") pilot programs, but the Agency would not accept the application on the basis that Petitioner was not presently receiving EA benefits. See Initial Decision at 2. The ALJ further noted that Petitioner was "on the verge of homelessness," as Petitioner was presently staying with a friend who was in Section 8 housing and could no longer stay there. *Ibid.* The ALJ opined that Petitioner had been improperly denied the right to apply for benefits, but made no finding as to Petitioner's possible eligibility. See *id.* at 3. As such, the ALJ ordered the Agency to provide Petitioner with EA benefits pending acceptance and complete evaluation of Petitioner's application for EA benefits under HHE or HAP. *Ibid.*

Neither party submitted exceptions.

As the Director of the Division of Family Development, Department of Human Services, I independently reviewed the record and hereby MODIFY the Initial Decision, REVERSE the Agency determination and REMAND the matter back to the Agency for expeditious handling as outlined below. Specifically, I am modifying the Initial Decision as to the ALJ's order that Petitioner be awarded EA benefits at this time. Rather, I am directing that Petitioner be evaluated for, and provided with, immediate need as necessary and pending the evaluation of Petitioner's application for EA benefits under HHE or HAP.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). EA benefits are limited to 12 months, plus limited extensions for "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; N.J.S.A. 44:10-51. Specifically, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits recipient may qualify for an additional six months of EA when an "extreme hardship" exists. Ibid. If the recipient's extreme hardship continues to exist at the expiration of the 6-month extension period, then an additional 6 months of EA may be provided. Ibid. Thus, the maximum amount of EA WFNJ/TANF recipient may receive is 24 months.

In the event a WFNJ/TANF recipient does not qualify for an "extreme hardship" extension, or has exhausted all of the "extreme hardship" extensions, they may qualify for an extension of EA under HHE, which expands upon the granting of EA extensions for WFNJ/TANF recipients. 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 on 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 recipient may receive up to an additional 12 months of EA. Ibid. However, a WFNJ/TANF recipient who has received a sanction within the 12-month period prior to applying for an HHE is ineligible for the program. N.J.A.C. 10:90-6.9(c)(1).

HAP is another pilot program which also expands upon the granting of EA extensions. However, HAP was designed to provide additional housing assistance for up to twenty four months to WFNJ and Supplemental Security Income ("SSI") 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).

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To be eligible for HAP, 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).

The record in this matter reflects that Petitioner is a WFNJ/TANF recipient. I agree with the ALJ in this matter that the Agency improperly refused to accept Petitioner's application for EA benefits. See Initial Decision at 3. However, as also correctly pointed out by the ALJ, acceptance of an application by the Agency does not presuppose eligibility. *Ibid.* Accordingly, the ALJ in this matter appropriately directed the Agency to accept and evaluate Petitioner's application for an extension of EA under the HHE and HAP pilots. *Ibid.*

Based upon the record presented, there is insufficient evidence to determine Petitioner's possible eligibility under either of the aforementioned pilot programs, and as such, I concur with the ALJ's directive. The Agency is to accept, process and evaluate Petitioner's application for EA benefits under the HHE and HAP pilot programs in an expeditious manner.

In regards to addressing Petitioner's immediate housing concerns, I note that N.J.A.C. 10:90-1.3(a) states, "All applicants for WFNJ shall be evaluated for immediate need at the time of application." Immediate need "means the assistance unit lacks shelter or is at imminent risk of losing shelter." N.J.A.C. 10:90-1.3(a)(1). "In situations where immediate need exists and other appropriate services are not immediately available to meet the needs of the assistance unit, or if the applicant expresses a need for [EA], the [Agency] shall ensure that the application is processed that day" N.J.A.C. 10:90-1.3(a)(2). There is nothing presented in the record that the Agency evaluated Petitioner for immediate need when she applied for an extension of EA on December 8, 2014. N.J.A.C. 10:90-1.3(a). The ALJ found, and I agree, that Petitioner is "on the verge of homelessness." See Initial Decision at 3.

As such, I direct that the Agency shall evaluate Petitioner for immediate need. Furthermore, as discussed above, the Agency shall accept and expeditiously evaluate Petitioner's potential eligibility for EA benefits under HHE and HAP pilots.

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For the foregoing reasons, I hereby MODIFY the Initial Decision, REVERSE the Agency determination and REMAND to the Agency for further handling as outlined herein.

DEC 31 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director