



*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

FINAL DECISION

OAL DKT. NO. HPW 115-15 S.W.

AGENCY DKT. NO. C152022 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits because she had exhausted her lifetime limit of EA benefits, received two extreme hardship extensions, an extension under the now defunct Supportive Housing Assistance Program ("SHAP"), and an additional twelve months of EA benefits under the Housing Hardship Extension ("HHE") pilot. On February 23, 2015, the Honorable Irene Jones, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 26, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

Exceptions to the Initial Decision were filed by the Agency on March 10, 2015.

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 REJECT the ALJ's Initial Decision and AFFIRM the Agency's determination.

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 the path to self-sufficiency. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent part, that the individual must have "an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing."

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") recipient 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 a 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, she may qualify for 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 benefits 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 benefits. *Ibid.*

The Housing Assistance Program ("HAP") pilot is another program which expands upon the granting of EA extensions. HAP was designed to provide additional housing assistance 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). There is no indication in the record that Petitioner is disabled, and as such, Petitioner is ineligible for an extension of EA benefits under HAP.

Pursuant to N.J.A.C. 10:90-6.1(c)(8), "In instances where the Division of Child Protection and Permanency ["DCP&P"], in consultation with the county agency, certifies that placement of the children is imminent due only to the fact that the family is being subjected to a serious health or life threatening situation because of the lack of adequate housing, EA benefits shall be provided in accordance with the applicable provisions of this subchapter."

With the above-referenced limitations in mind, the operative question in this matter is whether Petitioner still has EA benefits available to her. An independent review of the record, specifically Exhibit R-2, shows that Petitioner had received 53 months of EA benefits, as of January 2015. The record clearly indicates that Petitioner exhausted her 12-month lifetime limit, two six-month extreme hardship extensions, and extension under the now defunct SHAP, and 12 months under the

HHE pilot. See Initial Decision at 2. Accordingly, I find that the Agency properly terminated Petitioner's EA benefits because she had exhausted her lifetime limit. See N.J.A.C. 10:90-6.4, -6.9.

The record indicates that when Petitioner presented herself to the Agency as being homeless, the Agency addressed her immediate needs and placed her in a women and children's shelter. See Initial Decision at 2. 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). Further, N.J.A.C. 10:90-1.3(a) goes on to state that, "the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made." That is exactly what the Agency did here; it provided Petitioner with shelter placement until such time as it determined that she was no longer eligible for EA benefits because she had exceeded her lifetime limit of EA benefits.

Here, the ALJ opines that if Petitioner's family no longer receives EA benefits for shelter, the family will be homeless, and that under such circumstances continuing EA benefits is authorized under the regulation. See *id.* at 3, 4. While I realize Petitioner's continued need for housing assistance may still exist, I must note that EA benefits are not unlimited. Additionally, the ALJ opined, that because DCP&P was investigating possible domestic violence within the household, the Agency and DCP&P should have worked together to provide a service plan to address Petitioner's emergent situation. See Initial Decision at 3. Notably, domestic violence was not found, and DCP&P closed Petitioner's case on February 5, 2015. See *id.* at 2. However, I find that the Agency was not required to prepare an EA service plan in conjunction with DCP&P, because right after Petitioner received immediate assistance, in the form of shelter placement, the Agency made its final determination, found Petitioner was not eligible for continued EA benefits, and thereafter properly denied Petitioner EA benefits. Therefore, the need for a service plan was not necessary in this particular instance. See Initial Decision at 2; see also N.J.A.C. 10:90-1.3(a).

Further, the ALJ erroneously relies on N.J.A.C. 10:90-6.1(c)(8) to advance the proposition that Petitioner is entitled to continued EA benefits. However, there is nothing in the record to indicate that Petitioner's children were in danger of a DCP&P certified placement due to lack of adequate housing. See N.J.A.C. 10:90-6.1(c)(8). Moreover, even if DCP&P did certify placement of Petitioner's children due to lack of adequate housing, N.J.A.C. 10:90-6.1(c)(8) goes on to state, ". . . , EA shall be provided in accordance with the applicable provisions of this subchapter," and

this subchapter sets time limits on eligibility for EA benefits, which clearly, Petitioner has exceeded, as discussed above. See N.J.A.C. 10:90-6.4, -6.9, -6.10. Therefore, the Agency properly denied Petitioner EA benefits.

While the Petitioner is not eligible for EA benefits, as the record indicates that she remains a WFNJ/TANF recipient, and that there was a prior domestic violence matter, the Agency shall refer the Petitioner for a Family Violence Option Risk Assessment, N.J.A.C. 10:90-20.1 et seq., if it has not done so already. Additionally, the Agency shall refer the Petitioner to any and all agencies or programs which may assist her with her needs.

By way of comment, it appears from the fair hearing transmittal record that Petitioner requested a fair hearing concerning her Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits. However, this issue was not addressed at the hearing, so I have not addressed it in this decision. If Petitioner still has an issue regarding her SNAP benefits, she may request another fair hearing on that issue alone.

By way of further comment, it also appears from the fair hearing transmittal record that Petitioner requested a fair hearing contesting the termination of her Medicaid benefits. It should be noted that the Medicaid Program is not under the jurisdiction of this Division. However, a copy of the Initial and Final Decision will be forwarded to the Division of Medical Assistance and Health Services ("DMAHS") for review and resolution.

Finally, based upon the past involvement of DCP&P, a copy of the Initial and Final Decisions shall be forwarded to DCP&P

Accordingly, the Initial Decision is REJECTED and the Agency's action is AFFIRMED.

*Signed Copy on File*

at DFD, BARA

MAY 1 - 2015

---

Natasha Johnson  
Director