



*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 16845-14 T.A.

AGENCY DKT. NO. C236133 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of her application for an extension of Emergency Assistance ("EA") under the Housing Hardship Extension ("HHE") pilot program, N.J.A.C. 10:90-6.9. The Agency denied Petitioner's application for an extension of EA under HHE due to a sanction for failure to attend an assigned work activity within twelve months of applying for the EA extension under HHE. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 29, 2014, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 30, 2014, the ALJ issued an Initial Decision, which affirmed the Agency's action.

Exceptions to the Initial Decision were filed by counsel for Petitioner on January 5, 2015.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I MODIFY the ALJ's Initial Decision and AFFIRM the Agency's denial of an extension of EA under HHE to Petitioner.

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") recipient may qualify for an additional six months of EA 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 may be provided. *Ibid.* Thus, the maximum amount of EA 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 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, N.J.A.C. 10:90-6.9(c)(1) set a bright-line rule that a sanction within the twelve-month period prior to applying for an EA extension under HHE disqualifies a WFNJ/TANF recipient from eligibility for the HHE pilot.

A WFNJ recipient has 90 calendar days to appeal an Agency's action. See N.J.A.C. 10:90-9.10. That time limit may not be expanded, unless extraordinary and extenuating circumstances exist, such as serious illness, as determined by DFD. See N.J.A.C. 10:90-9.10(b).

Here, the record demonstrates that Petitioner incurred a sanction, effective July 1, 2014, for failure to comply with her WFNJ work activity. See Initial Decision at 2; see also Exhibit R-8. Additionally, the record demonstrates that the Agency provided proper notice to Petitioner of the sanction on June 9, 2014. See Initial Decision at 3; see also Exhibit R-9. Further, Petitioner acknowledges that she did receive the June 9th intent to sanction letter and, therefore, it is clear Petitioner did not appeal the sanction and is now out of time to do so. See Initial Decision at 6; see also N.J.A.C. 10:90-9.10(b). Consequently, the Agency's denial of a HHE was proper because Petitioner incurred a sanction within twelve months of her EA application, thereby making her ineligible for a HHE pursuant to N.J.A.C. 10:90-6.9(c)(1).

Nevertheless, the ALJ considered whether the sanction in this matter should be rescinded, based upon good cause, which might then permit Petitioner to be considered for an extension of EA under HHE. This consideration was misplaced.

While I concur with the ALJ's conclusion to affirm the Agency's denial of an extension of EA benefits under HHE, I do not agree with the ALJ's relaxation of Petitioner's 90 day requirement to appeal her sanction and her subsequent ruling on the merits of a good cause defense. See Initial Decision at 9. The ALJ relaxed the 90 day requirements based on whether notice of intent to sanction was received. Ibid. However, Petitioner specifically testified that she did receive the notice of intent to sanction, but did not receive the Agency's notice regarding the expiration of her EA benefits. See Initial Decision at 4, 6. Failure to receive notice of her expiration of EA benefits does not warrant a relaxation of the 90-day time limitation in the instant matter. Therefore, Petitioner's time to appeal the imposition of the sanctions had expired at the time the ALJ ruled on the merits of the underlying sanction.

By way of comment, I find that the arguments asserted in Petitioner's Exceptions to be without merit. Counsel attempts to argue several bases for rescission of the sanction, however, these contentions are clearly out of time. See N.J.A.C. 10:90-9.10(b). Accordingly, any arguments now made against the imposition of the sanction, or as a good cause defense to the sanction, are now untimely and improper.

By way of further comment, a copy of the Initial Decision in this matter will be forwarded to the Division of Child Protection and Permanency to ensure that the health, safety and welfare of Petitioner's children will be protected.

Accordingly, the Initial Decision in this matter is MODIFIED and the Agency's action is AFFIRMED.

JAN 15 2015

*Signed Copy on File*  
at DFD, BARA

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Jeanette Page-Hawkins  
Director