



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 23-15 T.R.

AGENCY DKT. NO. GA257394 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") cash benefits because she did not comply with the requirements of the Supportive Assistance for Individuals and Families ("SAIF") program, and the denial of Emergency Assistance ("EA") benefits under the Housing Assistance Program ("HAP") pilot program because Petitioner's spouse did not meet eligibility criteria. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 26, 2015, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, and admitted documents into evidence. On January 30, 2015, the ALJ closed the record after receiving, and admitting, additional documents into evidence. On January 30, 2015, the ALJ issued an Initial Decision which deferred the denial of EA benefits pending Petitioner's compliance with the SAIF program and her re-application for WFNJ/GA and EA benefits.

Exceptions to the Initial Decision were filed by Petitioner on February 3, 2015.

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, AFFIRM the Agency determination dated December 5, 2014, denying EA benefits, REVERSE the Agency determination dated December 11, 2014, regarding Petitioner's WFNJ/GA benefits, and REMAND the matter to the Agency as outlined below.

The SAIF program assists eligible WFNJ benefits recipients to become self-sufficient before they exhaust their 60-month WFNJ lifetime limit. N.J.A.C. 10:90-2.20(a); -2.3(a). The 24-month program offers intensive case management at 48 months to recipients who are compliant with WFNJ requirements, have not yet become self-sufficient, and who do not appear to be exempt from the 60-month lifetime limit. N.J.A.C. 10:90-2.20(a). SAIF participants are eligible for an extension of WFNJ cash benefits, social, and work support services for up to 12 additional months beyond the 60-month lifetime limit, or a maximum of 72 months. N.J.A.C. 10:90-2.20(c) and (g).

On January 14, 2013, Petitioner and the Agency signed an Individual Responsibility Plan ("IRP") which contemplated a referral to the SAIF program. Initial Decision at 2; Exhibit R-4. On April 10, 2014, Petitioner requested a hearing in connection with the denial of her claim for Supplemental Security Income ("SSI") benefits. Exhibit P-6. On or shortly before October 24, 2014, Petitioner submitted a 12-month MED-1 form to the Agency. Initial Decision at 2; Exhibit P-1. On October 24, 2014, Petitioner and the Agency signed an updated IRP. Exhibit P-2. On October 28, 2014, the Agency asked the SAIF vendor to add Petitioner to its caseload. Exhibit R-9.

The ALJ found the SAIF vendor sent a letter to Petitioner dated November 7, 2014, scheduling an appointment for November 25, 2014, and a reminder letter on November 12, 2014. Initial Decision at 2-3, 7; Exhibits R-5 and R-6. The ALJ credited Petitioner's testimony that she did not receive or understand notices from the SAIF vendor sent prior to November 17, 2014, the date she and her spouse went to the Agency and applied for an extension of EA under the Housing Hardship Extension ("HHE") and HAP pilot programs. Initial Decision at 7-8; Exhibit R-1. I concur with the ALJ's finding that Petitioner reasonably believed her visit to the Agency complied with notices from the SAIF vendor scheduling appointments for November 25, and later December 3, 2014. Initial Decision at 7-8; Exhibits R-5 through R-7. Based upon the foregoing, I find Petitioner complied in good faith with the requirements of the SAIF program, and alternatively had good cause why she did not appear for any appointments scheduled before mid-December 2014. N.J.A.C. 10:90-2.20(f); Exhibit R-9. As a result, I reverse the Agency determination to the extent it terminated Petitioner's WFNJ/GA benefits, and modify the Initial Decision to the extent it deferred the Agency action pending Petitioner's compliance with the SAIF program and re-application for WFNJ/GA benefits. Initial Decision at 12-13.

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 WFNJ/GA benefits recipient, such as Petitioner, may qualify for an additional six months of EA benefits when an

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"extreme hardship" exists. Ibid. Thus, the maximum amount of EA benefits that a WFNJ/GA benefits recipient may receive is 18 months.

If a WFNJ/GA recipient exhausts their lifetime limit for EA benefits, the recipient may receive additional EA benefits under HAP, which is a pilot program that expands upon the extensions of EA benefits. HAP was designed to provide additional housing assistance for up to 24 months to WFNJ/GA 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). To be eligible for the 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). A WFNJ/GA client may also be eligible for EA under HAP 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).

HHE is another pilot program which also expands upon the granting of EA extensions, but only for WFNJ/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits recipients, not WFNJ/GA benefits recipients. See N.J.A.C. 10:90-6.9.

The record in this matter reflects that Petitioner is a WFNJ/GA recipient who has reached her lifetime limit of 12 months of EA, and exhausted her "extreme hardship" extension of EA benefits under N.J.A.C. 10:90-6.4(b). Moreover, applying the regulatory standards for HHE and HAP as outlined above, it is clear that Petitioner is not presently eligible for a further extension of EA benefits. Petitioner is not eligible for an extension under HHE, as that program is restricted to WFNJ/TANF benefits recipients. Additionally, Petitioner is not eligible for an extension under HAP, as her spouse has not provided proof of an SSI application or appeal, or a MED-1 substantiating at least 12 months of disability.

By way of comment, this decision is without prejudice to Petitioner's right to reapply for an extension of EA benefits under the HAP program pilot, subject to applicable eligibility criteria.

By way of further comment, the exceptions filed by counsel for Petitioner raise related issues that cannot be determined based upon the present record in this matter. One, Petitioner contends the Agency did not follow the sanction process required by N.J.A.C. 10:90-2.20(f), and set forth in N.J.A.C. 10:90-4.13, and instead inappropriately terminated the WFNJ/GA benefits of both Petitioner and her spouse.

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Two, Petitioner contends, and the Initial Decision tends to suggest, that the Agency may not have paid the correct amount of WFNJ/GA benefits to Petitioner and/or her spouse for a presently undetermined period of time. Initial Decision at 2, 4, and 7-8. Finally, Petitioner questions whether the Agency appropriately referred Petitioner to the SAIF program given her documented medical condition, and rather, contends she may be exempt from the 60-month cumulative lifetime WFNJ limit at N.J.A.C. 10:90-1.1(d). See N.J.A.C. 10:90-2.4(a)(3)(i). Based upon the foregoing, I am remanding this matter to the Agency to address these issues, make any appropriate adjustments to the WFNJ/GA benefits paid to Petitioner and/or her spouse, and evaluate Petitioner's continued participation in the SAIF program, and specifically, whether she is eligible for an exemption from the 60-month cumulative lifetime WFNJ limit.

In total, the Agency is directed to rescind the sanction and reinstate Petitioner's WFNJ/GA benefits retroactive to the effective date of its termination. Petitioner is not eligible for an extension of EA benefits under the HHE pilot program, and although not presently eligible for an extension of EA benefits under the HAP pilot program, may reapply without prejudice, subject to applicable eligibility criteria. The matter is remanded to the Agency to address the issues raised by counsel for Petitioner.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency determination dated December 5, 2014, denying EA benefits is AFFIRMED, the Agency determination dated December 11, 2014, pertaining to WFNJ/GA benefits is REVERSED, and the matter is REMANDED to the Agency as discussed above.

Signed Copy on File
at DFD, BARA

MAR 18 2015

Jeanette Page-Hawkins
Director