



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Acting Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Director
Tel: (609) 588-2000

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 00681-18 J.W.

AGENCY DKT. NO. C220775009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA"), benefits. The Agency terminated Petitioner's EA benefits contending that he failed to comply with his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 15, 2018, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 22, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on April 3, 2018.

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 hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency as discussed below.

In relevant part, pursuant to N.J.A.C. 10:90-6.9, in order to be eligible for an extension of EA benefits in accordance with the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program, the assistance unit ("AU") must be receiving WFNJ cash benefits; the AU must contain at least one adult member who is permanently disabled, as evidenced by a 12-month MED-1; the permanently disabled adult(s) must have a Supplemental Security Income ("SSI") application or appeal pending; all adult members of the AU must be unemployable; the AU unit must have exhausted their 12-month lifetime limit of EA benefits, plus all available extreme hardship extensions; the AU must be in imminent danger of homelessness; and the permanently disabled adult(s) must retain legal counsel to assist with the SSI application/appeal process within 60 days after being determined eligible for PHASE.

Here, the record reflects that Petitioner executed an SP wherein he agreed, among other things, to continue to follow up on the status of his Supplemental Security Income ("SSI") benefits application, which includes appealing any denial of his SSI claim, and to provide the Agency with SSI status updates, monthly. See Initial Decision at 2-3; see also Exhibit R-2. The ALJ found that Petitioner had provided the Agency with the required status updates, and that Petitioner currently has an SSI appeal pending. See



Initial Decision at 3-4; see also Exhibit P-1, P-2, and R-3. Based on the foregoing, the ALJ concluded that Petitioner complied with the terms of his SP and, therefore, that the Agency's termination of EA benefits was improper and must be reversed. See Initial Decision at 4-5; see also Exhibit R-1, and N.J.A.C. 10:90-6.6(a).

The record also indicates that Petitioner has received 82 months of EA benefits, and as such, he has exhausted his 12-month lifetime limit of EA benefits, plus all available extreme hardship extensions. See Initial Decision at 3; see also N.J.A.C. 10:90-6.4(a), (b), (d). It is unclear from the record if Petitioner has a 12-month MED-1 form, yet the ALJ, nevertheless found Petitioner eligible for an extension of EA benefits pursuant to PHASE. See Initial Decision at 4-5; see also N.J.A.C. 10:90-6.9.

While I agree with the ALJ's conclusion that Petitioner complied with the terms of his SP, and that the Agency's termination of EA benefits on that basis was improper, I find that it is unclear from the record whether or not Petitioner meets the eligibility requirements for an extension of EA benefits pursuant to PHASE. See N.J.A.C. 10:90-6.9. Therefore, I am remanding the matter to the Agency to evaluate Petitioner for PHASE eligibility. Ibid. The Initial Decision is modified to reflect this finding.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's action is REVERSED, and the matter is REMANDED to the Agency based on the discussion above.

APR 27 2010

Officially approved final version.

Natasha Johnson

Director

