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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 10276-18 M.F.

AGENCY DKT. NO. S443538014 (MORRIS CO. OFFICE OF TEMP ASSISTANCE)

Petitioner appeals from the Respondent Agency's denial of an extreme hardship extension of Emergency Assistance ("EA") benefits. The Agency denied Petitioner an extension of EA benefits contending that she failed to meet the criteria for such extension. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 9, 2018, a hearing was scheduled before the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), at which time the parties agreed to submit the case on the papers. On August 13, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on August 24, 2018. A Reply to the Agency's Exceptions was filed by Petitioner on August 28, 2018.

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

EA benefits are limited to 12 lifetime cumulative months, see N.J.A.C. 10:90-6.4(a), plus limited extensions for an "extreme hardship." A WFNJ/GA recipient may qualify for one six-month EA extension if the Agency determines that a case of extreme hardship exists pursuant to N.J.A.C. 10:90-6.4(b)(1), (2). See also N.J.A.C. 10:90-6.4(c). Pursuant to N.J.A.C. 10:90-6.4(b)(2), one type of extreme hardship is when the recipient is in applicant status for Supplemental Security Income ("SSI"), or has been denied, but has appealed the denial. This needs to be supported by a valid MED-1 form. Ibid.

In relevant part, in accordance with the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program, in order to be eligible for an extension of EA benefits pursuant to PHASE, the applicant/recipient must have exhausted the applicable EA benefits pursuant to the time limits provided in N.J.A.C. 10:90-6.4(a), (b).



Here, the record reflects that Petitioner has received 12.5 months of EA benefits, and as such, she has exhausted her 12-month lifetime limit of EA benefits. See Initial Decision at 2; see also N.J.A.C. 10:90-6.4(a). The ALJ found that Petitioner has a valid 12-month MED-1 form, and an SSI application pending appeal, and as such, that Petitioner is eligible for an extension of EA benefits pursuant to PHASE. See Initial Decision at 3, 5-6; see also Exhibit R-1 at 14, and N.J.A.C. 10:90-6.4(b)(2). Based on the foregoing, the ALJ concluded that the Agency's denial of an extension of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 6; see also Exhibit R-1 at 3-7.

However, while I agree with the ALJ that Petitioner has a valid MED-1 form and an SSI appeal pending, I find that she is eligible for an extreme hardship extension of EA benefits pursuant to N.J.A.C. 10:90-6.4(b)(2), not pursuant to PHASE as concluded by the ALJ, because Petitioner has not yet exhausted the applicable EA benefits under -6.4 as required by PHASE. See Initial Decision at 5-6; see also N.J.A.C. 10:90-6.9. The Initial Decision is modified to reflect this finding.

By way of comment, it appears from the Agency's Exceptions dated August 24, 2018, that the Agency may not have agreed to have this matter decided on the papers, and when no clear agreement exists, the matter should proceed to a hearing on the record in accordance with N.J.A.C. 1:1-14.1. See "Agency Exceptions" at 1.

By way of further comment, I note for the benefit of Petitioner that replies to Exceptions or Cross-Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2.

Accordingly, the Initial Decision is hereby MODIFIED, as discussed above, and the Agency's action is REVERSED.

Officially approved final version.

SEP 27 2018

Natasha Johnson
Director

