



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

P.O. Box 716

TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
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

FINAL DECISION

OAL DKT. NO. HPW 12924-14 C.H.

AGENCY DKT. NO. C240255 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of her Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits because she received a lump sum payment of Supplemental Security Income ("SSI") benefits for her son, thus having had a realistic capacity to pay her rent. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 3, 2014, the Honorable Irene Jones, 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.

No exceptions to the Initial Decision were received.

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

The purpose of EA is to meet the emergent needs of public assistance and SSI recipients, such as imminent homelessness "due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing." See N.J.A.C. 10:90-6.1(c). In order to be eligible for EA, the recipient must demonstrate that her shelter costs equal or exceed the total income available to her assistance unit. N.J.A.C. 10:90-6.1(a)(1). Further, as part of the determination of EA eligibility, the agency must evaluate all potential contributions of support to the household. N.J.A.C. 10:90-6.1(c)(2).

Pursuant to N.J.A.C. 6.1(c)(1)(ii), EA shall be provided when "[a] lack of realistic

capacity to engage in advance planning [for the payment of housing] shall be said to exist." A lack of realistic capacity to plan exists where the assistance unit demonstrates that available funds were exhausted on "items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii). Items deemed appropriate, include, but are not limited to, food, clothing, housing, attending the funeral of a family member, excessive unreimbursed medical expenses, or car payment or repairs. Ibid.

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.

The Housing Assistance Program ("HAP") is a pilot program which expands upon the granting of EA extensions. HAP was designed to provide additional housing assistance to WFNJ recipients who are determined permanently disabled and SSI recipients who are in imminent danger of homelessness, who have exhausted all EA extensions, as appropriate, provided such recipients continue to need EA and are otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1. See N.J.A.C. 10:90-6.10(a)(1).

Here, Petitioner received a lump sum SSI payment on behalf of her son, in the amount of \$2,256.75, as an initial installment for back payment of SSI benefits, with a remaining installment of \$704.50 to be paid within six months. See Initial Decision at 2. Ongoing, Petitioner's assistance unit will receive an SSI payment of \$592.25 per month on behalf of the son. Ibid. Petitioner is receiving \$162 per month of WFNJ/TANF benefits. See Exhibit P-3. Petitioner's monthly rent is \$1,300. See Initial Decision at 2.

The ALJ found, and I concur, that because Petitioner received an SSI lump sum benefit payment on behalf of her son in the amount of \$2,256.75, and failed to provide any evidence of how those funds were spent, she was no longer eligible for EA benefits. See *id.* at 3. However, as Petitioner testified that she used the lump sum SSI funds to pay a lawyer for a DYFS matter, purchase furniture, and buy school clothes, she may be eligible for EA benefits if she can provide the Agency with proof of these expenditures. See N.J.A.C. 10:90-6.1(c)(1)(ii).

Page 3

Finally, although the record indicates that Petitioner has received thirty-seven months of EA benefits, she may be eligible for an extension of EA benefits under HAP. See N.J.A.C. 10:90-6.10.

By way of comment, the record indicates that Petitioner has an SSI claim and had a hearing scheduled for January 7, 2015. Petitioner is advised that if her SSI monthly benefit award, coupled with her other countable household income, is equal to or less than her monthly rental payment, she may continue to be eligible for EA benefits, provided she continues to need EA benefits and is otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1 and N.J.A.C. 10:90-6.10(a).

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

Signed Copy on File
at DFD, BARA

FEB 23 2015

Jeanette Page-Hawkins
Director