



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 7340-14 E.H.

AGENCY DKT. NO. GA549788 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals the correctness of the Respondent Agency's determination of his applications for Work First New Jersey/General Assistance ("WFNJ/GA"), Emergency Assistance ("EA") and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 25, 2014, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On July 2, 2014, the ALJ issued an Initial Decision. At the hearing, Petitioner acknowledged his receipt of SNAP benefits and waived any claim to retroactive SNAP benefits. With respect to Petitioner's WFNJ/GA and EA benefits, the ALJ concluded that Petitioner is eligible for retroactive WFNJ/GA and EA benefits because of delays in the WFNJ/GA application process. The ALJ ordered the Agency to provide Petitioner with retroactive WFNJ/GA and EA benefits back to the date of his October 2013 application.

Neither party submitted exceptions.

As Director of the Division of Family Development, Department of Human Services, I have reviewed the record and the ALJ's Initial Decision and I MODIFY the Initial Decision to direct that the Agency provide WFNJ/GA benefits retroactive to the date Petitioner completed his 28-day work activity. In addition, although I agree with the ALJ that Petitioner is eligible for EA benefits, I REMAND this matter to the Agency and direct the Agency to meet with Petitioner to discuss his EA benefits consistent with this Final Decision.

On October 18, 2014, Petitioner applied for WFNJ/GA, EA and SNAP benefits. On October 24, 2014, the Petitioner produced additional documents requested by the Agency. The Agency did not ask for any additional documents or information. During the hearing, the Agency representative testified that the Petitioner was WFNJ/GA eligible prior to January 2014. See Initial Decision at 2-3. As such, in order to be eligible for WFNJ/GA prior to January 2014, it appears that Petitioner completed his 28 day work activity in November or December 2013.

In late January 2014, the Agency told Petitioner it approved his WFNJ/GA application, but he would have to submit a new application because his original application was more than 30 days old. There is no regulatory authority for this action.

On January 27, 2014, Petitioner submitted a second application for WFNJ/GA benefits. In the several months following his second application, Petitioner made 17 documented visits to the Agency. See Exhibits P-8 to P-10.

In May 2014, seven months after his second WFNJ/GA application, the Agency approved WFNJ/GA and SNAP benefits retroactive to April 1, 2014, but did not make a determination regarding EA. Petitioner promptly appealed the correctness of the Agency determination. By that time, his rent was seven months in arrears. Two weeks after Petitioner appealed, his landlord issued an eviction notice.

Here, the record demonstrates that the Agency did not determine Petitioner's WFNJ/GA applications within 30 days. N.J.A.C. 10:90-1.5(a). Further, the Agency did not advise Petitioner of the reasons for the delay and his right to a fair hearing. N.J.A.C. 10:90-1.4(a) and (c); -9.10. Consequently, I agree with the ALJ that the Petitioner is entitled to retroactive WFNJ/GA benefits. However, I modify the Initial Decision to reflect that the Agency shall provide WFNJ/GA benefits retroactive to the date Petitioner completed his 28-day work activity. See N.J.A.C. 10:90-1.2(f)(8)(authorizing WFNJ/GA benefits to the date of completion of 28-day work activity and not the date of application).

With respect to Petitioner's EA benefits, I REMAND this matter to the Agency and direct that the Agency and Petitioner meet immediately to determine the most appropriate form of EA. Although I authorize the Agency to provide retroactive benefits to the Petitioner in the form of EA/TRA from the date of WFNJ/GA eligibility to present, the Agency must advise the Petitioner of the lifetime limit of EA benefits. Significantly, EA benefits are limited to 12 months, plus a single 6-month extreme hardship extension. N.J.A.C. 10:90-6.4. More specifically, the total amount of EA benefits that Petitioner may receive is 18 months. Ibid. In light of these limitations,

the Agency should advise Petitioner of his options regarding his receipt of EA --- whether he wishes to receive retroactive EA/TRA, which will nearly exhaust his 12-month lifetime limit of EA, or whether he wishes to accept EA in another form as determined by the Agency going forward. The Agency shall give deference to the Petitioner's preference regarding his receipt of EA benefits.

Finally, should Petitioner apply for an EA extreme hardship extension at the end of his 12-month lifetime limit of EA benefits, I find Petitioner has taken all reasonable steps to resolve his emergent situation, but the emergency continues and has caused an extreme hardship. N.J.A.C. 10:90-6.4(b)1. Despite his apparent eligibility, Petitioner did not receive WFNJ/GA benefits for more than 6 months after his initial application due to delays in processing his application. Thus, if Petitioner applies for an EA extreme hardship extension, then I direct the Agency to provide said extension to Petitioner so long as he is otherwise eligible for EA benefits.

Accordingly, I MODIFY the Initial Decision and REMAND this matter to the Agency.

SEP - 2 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director