



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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Elizabeth Connolly
Acting Commissioner

Natasha Johnson
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

REMAND DECISION

OAL DKT. NO. HPW 16266-14 G.G.

AGENCY DKT. NO. C157546 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 16, 2015, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), adjourned the scheduled hearing and directed the Agency to evaluate whether Petitioner was eligible for an extension of EA benefits under the Housing Hardship Extension ("HHE") pilot program. On March 4, 2015, the ALJ held a plenary hearing, took testimony, and admitted documents. On March 6, 2015, the ALJ issued an Initial Decision which remanded the matter to the Agency to evaluate whether Petitioner is eligible for an extension of EA benefits under N.J.A.C. 10:90-6.4(b) or HHE.

No exceptions to the Initial Decision were received.

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 ADOPT the Initial Decision, REVERSE the Agency determination and REMAND the matter to the Agency.

On October 8, 2014, the Agency notified Petitioner that it would terminate her EA benefits effective December 31, 2014 upon the exhaustion of her 12-month lifetime limit of EA benefits under N.J.A.C. 10:90-6.4(a). Initial Decision at 2; Exhibits R-1, P-1 at 10-11. On October 23, 2014, Petitioner applied for an extension of EA benefits under the "extreme hardship" provisions of N.J.A.C. 10:90-6.4(b) and a

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similar extension under HHE and the Housing Assistance Program ("HAP") pilot programs. Initial Decision at 2; Exhibit P-1 at 7-9.

On November 3, 2014, the Agency denied an "extreme hardship" extension of EA benefits because Petitioner did not document any long-term medical or psychological problems that indicate she is unlikely to ever secure or maintain employment. Initial Decision at 3. Exhibits R-1, P-1 at 5-6. The Agency's sole stated reason for the denial does not appropriately refer to the criteria for an "extreme hardship" extension, N.J.A.C. 10:90-6.4(b), but instead to one of the potential bases for eligibility under HAP. N.J.A.C. 10:90-6.10(a)(1)(iii). Exhibits R-1, P-1 at 5-6. On November 12, 2014, Petitioner requested a fair hearing in connection with the adverse Agency action. Exhibit P-1 at 2-3.

The ALJ adjourned the first scheduled hearing on January 16, 2015, to enable the Agency to evaluate whether Petitioner was eligible for an extension of EA benefits under HHE. Initial Decision at 3. By the date of the second hearing on March 4, 2015, the Agency had neither evaluated Petitioner's eligibility under HHE nor reconsidered the basis of its denial of an "extreme hardship" extension. *Ibid.* Moreover, the Agency representative testified she had been instructed to "automatically" deny any application for an "extreme hardship" extension of EA benefits which did not specifically cite to the one of the enumerated criteria in the non-exhaustive list at N.J.A.C. 10:90-6.4(b)(1). Initial Decision at 2-3.

Under the totality of the circumstances, I concur with the ALJ, and hereby remand the matter to the Agency and direct it to immediately evaluate Petitioner's eligibility for an extension of EA on the basis of extreme hardship or her eligibility for benefits under the HHE pilot program in a manner that is consistent with the requirements of the regulations governing those extensions. If the Agency determines that the Petitioner is not eligible for additional EA under both the extreme hardship extension and HHE, the Agency must provide her with notice of the determination in accordance with N.J.A.C. 10:90-6.9 et seq., and the Petitioner shall have the right to a Fair Hearing.

Accordingly, the Initial Decision is ADOPTED, the Agency determination is REVERSED, and this matter is REMANDED to the Agency.

MAY 7 - 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director