



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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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 16588-14 I.C.

AGENCY DKT. NO. C300290 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") because she failed to provide requested information in connection with her application. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On December 22, 2014, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, admitted documents, and issued an Initial Decision which affirmed the Agency determination.

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 MODIFY the Initial Decision, AFFIRM the Agency determination, and REMAND the matter to the Agency.

Petitioner is in all instances the primary source of information about herself and the assistance unit. N.J.A.C. 10:90-1.6(a). Likewise, receipt of EA is contingent upon Petitioner taking reasonable steps towards resolving the emergent situation. N.J.A.C. 10:90-6.6(a). This includes cooperating with the Agency to determine eligibility for EA. See N.J.A.C. 10:90-6.9(e)(1); -6.10(e)(1).

The ALJ found, and Petitioner does not dispute, that "the [Agency] intake worker requested Petitioner to present documents from the landlord showing all rental

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payments and the landlord's reason for not accepting a partial payment of rent, which Petitioner offered. [The Agency] also informed [Petitioner] that she must return the requested information within thirty days from November 3, 2015 (sic). On December 4, 2014, [Petitioner] had not submitted the information and [the Agency] denied the request for EA." Initial Decision at 2; Exhibit R-1 at 4.

Having appropriately determined the only issue before the OAL, the ALJ improperly concluded "Petitioner incurred a sanction for non-compliance with the work requirement in November 2014. It is unclear whether she appealed this sanction. Nevertheless, Petitioner and the members of her household have not demonstrated good cause for her failure to appeal the sanction or the circumstances which resulted in the imposition of sanctions. [Citation omitted]." Initial Decision at 4-5.

Pursuant to N.J.A.C. 10:90-9.10(a), Petitioner must request a hearing within 90 calendar days of an Agency action or inaction. As Petitioner apparently has not appealed the sanction which was imposed in November 2014, and the appeal period has not yet run, the issue was not properly before the OAL, and the ALJ's decision appears premature to determine the factual basis of the sanction.

The purpose of EA is to meet the needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work related activities without disruption in order to continue on the path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA benefits are limited to twelve cumulative months, plus limited extensions for an "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(b); see also N.J.S.A. 44:10-51. Specifically, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient, such as Petitioner, 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 that a WFNJ/TANF benefits recipient may receive is twenty four months.

In the event a WFNJ/TANF recipient does not qualify for an "extreme hardship" extension, or has exhausted all of the "extreme hardship" extensions, the recipient may qualify for an extension under the Housing Hardship Extension ("HHE") pilot project, which expands upon the granting of EA extensions for WFNJ/TANF recipients. See N.J.A.C. 10:90-6.9. To qualify for HHE, the WFNJ/TANF recipient must be "employable and have been in compliance with the WFNJ work requirements, but have been unsuccessful in obtaining full-time employment, have exhausted their 12-month lifetime limit of EA and the two extensions, as appropriate, and are still in need of housing assistance to become self-sufficient." N.J.A.C. 10:90-6.9(a)(1). If eligible, the WFNJ/TANF recipient may receive up to an additional twelve months of EA. *Ibid.* However, N.J.A.C. 10:90-6.9(c)(1) sets a bright-line rule

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that a sanction within the 12-month period prior to applying for an extension under HHE disqualifies a WFNJ/TANF recipient from eligibility for the HHE pilot.

If a WFNJ recipient exhausts their lifetime limit for EA benefits, the recipient may receive additional EA benefits under the Housing Assistance Program ("HAP"), which is a pilot program that expands upon the extensions of EA benefits. HAP was designed to provide additional housing assistance for up to twenty four months to WFNJ and Supplemental Security Income ("SSI") recipients, facing imminent homelessness, who are unemployable due to "disabilities that prevent them from finding employment." See 43 N.J.R. 2715(a). To be eligible for the HAP, one or more criteria must be met. N.J.A.C. 10:90-6.10(a)(1).

One of the criteria is that the recipient can demonstrate that they have "applied for and either is pending approval or appealing a denial of Retirement, Survivors and Disability ("RSDI") and/or SSI disability benefits, which shall be supported by a MED-1 form substantiating at least 12 months of disability." N.J.A.C. 10:906.10(a)(1)(i). The purpose of establishing that an individual is disabled for at least 12 months through a certified MED-1 form is to show that the individual is unable to engage in regular employment. See 43 N.J.R. 2715(a) and N.J.A.C. 10:90-4.10(a)(2).

Another criterion is that the recipient is "the sole caretaker of a severely disabled or seriously ill dependent child or family member." N.J.A.C. 10:90-6.10(a)(1)(ii).

I note in the foregoing regard that one of Petitioner's children is an SSI recipient. Initial Decision at 2.

Petitioner has received 35 units of EA, which suggests she has exhausted her 12-month lifetime EA limit, two 6-month "extreme hardship" extensions of EA, and part of available housing assistance under the HHE and/or HAP pilots. Initial Decision at 2. Petitioner is ineligible for an extension of EA under the HHE pilot for a period of 12 months from the date of the sanction unless the Agency rescinds the sanction, or Petitioner timely appeals, establishes good cause, and the adverse Agency action is reversed. N.J.A.C. 10:90-6.9(c)(1). This period of ineligibility attaches regardless of whether the Agency withdraws the sanction or Petitioner comes into compliance with WFNJ work requirements. Although the sanction does not similarly require a period of ineligibility for an extension of EA under the HAP, there is no evidence Petitioner is otherwise presently eligible under the HAP pilot. Initial Decision at 2-3.

Petitioner testified she has an open case with the Division of Child Protection and Permanency ("DCP&P"), f/k/a DYFS. Initial Decision at 3. "In consultation with DCP&P, EA shall be provided to a DCP&P family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements." N.J.A.C. 10:90-6.1(c)(6). "When EA is granted to a DCP&P family that caused its

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own homelessness, the Agency and DCP&P shall establish communication to ensure coordination of the DCP&P plan, the EA service plan and the individual responsibility plan." N.J.A.C. 10:90-6.1(c)(6)(i). "Every effort shall be made to avoid situations in which the development and execution of one plan infringes upon the development and execution of another, thereby placing the recipient(s) in danger of either being sanctioned due to noncooperation or terminated from the receipt of EA." N.J.A.C. 10:90-6.1(c)(6)(i)(1). "Failure to comply with the DCP&P service plan or the EA service plan may, in consultation with DCP&P, result in the termination of EA." N.J.A.C. 10:90-6.1(c)(6)(i)(2).

In summary, the Agency appropriately denied EA based upon Petitioner's conceded failure to submit requested information necessary to evaluate her EA application. The ALJ improperly determined the appropriateness of a sanction, which has not been appealed and was not before the OAL. It is on this basis that I am modifying the Initial Decision. Petitioner may without prejudice timely appeal the sanction. The matter is remanded to the Agency to consult with DCP&P.

Copies of the Initial and Final Decisions will be sent to DCP&P because the Initial Decision indicates Petitioner is involved in an open DCP&P matter.

Accordingly, the Initial Decision is MODIFIED, the Agency determination is AFFIRMED, and the matter is REMANDED to the Agency.

*Signed Copy on File*  
at DFD, BARA

**JAN 15 2015**

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Jeanette Page-Hawkins  
Director