



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 14381-14 J.F.

AGENCY DKT. NO. C226098 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") because she is not eligible for an extreme hardship extension based upon non-compliance with her Service Plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On December 30, 2014, the Honorable Ellen Bass, Administrative Law Judge ("ALJ"), converted the plenary hearing to emergent, took testimony, admitted documents, and issued an Initial Decision which reversed the Agency determination and directed the grant of EA in the form of Temporary Rental Assistance ("TRA") retroactive to November 1, 2014.

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

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

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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.

The Agency denied an extreme hardship extension of EA under N.J.A.C. 10:90-6.4(b) because Petitioner violated her SP by failing to pay her utility bill without good cause. Initial Decision at 3. The ALJ determined Petitioner was eligible for a 6-month extreme hardship extension because there was an imminent danger of the breakup of her family, but did not specifically determine whether Petitioner had good cause for non-compliance with her SP. Initial Decision at 3; see Exhibit P-1.

There is no evidence Petitioner met any of the eligibility criteria in N.J.A.C. 10:90-6.4(b)(1) when the Agency denied an extreme hardship extension of EA in early October 2014. The ALJ found Petitioner eligible for an extension based solely upon an original letter from the Division of Child Protection and Permanency (“DCP&P”), f/k/a DYFS, dated the same date as the OAL hearing, and signed by an investigator who did not testify at the OAL hearing. The letter is not copied to a case worker or a supervisor, and states only that “unless [Petitioner] locates a suitable apartment, [DCP&P] will have no choice but to take further [unspecified] action regarding the children due to the unstable housing situation.” *Ibid.*

There is insufficient credible evidence that there was an open DCP&P case, much less an “imminent danger of the immediate breakup of [Petitioner’s] family unit,” when the Agency denied EA nearly 3 months earlier. N.J.A.C. 10:90-6.4(b)(1)(ii). Initial Decision at 3; see Exhibit P-1. In addition, the letter is addressed “To Whom It May Concern,” suggesting DCP&P had not previously shared its apparent concerns with the Agency. Exhibit P-1. Moreover, the letter references a second child, 9 years of age, who is not part of the WFNJ assistance unit. Initial Decision at 3; Exhibits P-1 and R-1 at 5. Under the circumstances, the letter is not an independent basis to direct the grant of EA, but only evidence of a DCP&P case pending as of the date of the OAL hearing.

“Receipt of [EA] is contingent upon the recipient’s taking reasonable steps towards resolving the emergent situation,” including “participation in the formulating, complying with and carrying out of [an SP].” N.J.A.C. 10:90-6.6(a). “Failure to comply with the mandatory activities of the [SP] without good cause shall result in the termination of EA benefits for a period of six months.” *Ibid.*

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In February 2014, Petitioner signed an SP that in relevant part identified chronic non-payment of utilities as a barrier to finding affordable housing, and required her "to pay her [utility] bill on time every month." Exhibit R-1 at 3-4. Notwithstanding, Petitioner has not paid any money towards her utilities since October 2013, has an

outstanding balance of more than \$1,000.00, and has received a shut-off notice. Exhibit R-1 at 1-2. There is no evidence Petitioner has good cause for an otherwise unexcused failure to comply with her SP, and likewise no evidence of extraordinary circumstances that would support the payment of more than a year of retroactive utility bills. See N.J.A.C. 10:90-6.6(a); -6.3(a)(5)(i).

Nevertheless, I am remanding the matter to the Agency to re-determine Petitioner's eligibility for an extension of EA because it appears Petitioner presently has an open case with DCP&P. Initial Decision, at p. 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 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, I find that the Agency appropriately denied EA based upon Petitioner's unexcused non-compliance with her SP. The matter is remanded to the Agency to consult with DCP&P, and to evaluate Petitioner for immediate need in connection with any reevaluation for EA.

By way of comment, the Initial Decision does not constitute a determination on a sanction for non-compliance with WFNJ work activities that the Agency imposed effective January 2015, an issue not properly before the OAL. See Initial Decision at 2, 3.

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.

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Accordingly, the Initial Decision is REJECTED, 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