



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 14920-15 J.S.

AGENCY DKT. NO. C205629 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she had received three months of EA benefits in the form of shelter placement, and failed to secure permanent housing. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 22, 2015, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 28, 2015, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I REJECT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter back to the Agency based on the discussion below.

A Work First New Jersey ("WFNJ") benefits recipient has 90 calendar days to appeal an Agency's adverse action. See N.J.A.C. 10:90-9.10(a). That time limit may not be expanded, unless extraordinary and extenuating circumstances exist, such as serious illness, as determined by DFD. See N.J.A.C. 10:90-9.10(b).

EA benefits are limited to 12 lifetime cumulative months, see N.J.A.C. 10:90-6.4(a), plus limited extensions for an "extreme hardship." A WFNJ/Temporary Assistance for

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Needy Families ("TANF") recipient may qualify for two six-month EA extensions if the Agency determines that a case of extreme hardship exists pursuant to N.J.A.C. 10:90-6.4(b)(1). See N.J.A.C. 10:90-6.4(d). While N.J.A.C. 10:90-6.4(b)(1) lists five eligibility criteria to be considered by the Agency, it should be noted the list is not exhaustive. See DFD Instruction 13-12-02 (clarifying that extensions "may be granted for additional reasons beyond those listed in [the] regulation...only after conferring with DFD"). Thus the maximum amount of EA benefits that a WFNJ/TANF cash recipient may receive is 24 months.

Based on an independent review of the record, I find that the Agency's adverse action notice to Petitioner was dated April 27, 2015, and that Petitioner requested a fair hearing on the matter, on June 18, 2015, not on August 13, 2015, as stated in the Initial Decision. See Fair Hearing Data Sheet; see also Initial Decision at 2. Of note, August 13, 2015, was the date on which the Agency transmitted Petitioner's request for an appeal to the Bureau of Administrative Review and Appeals. See Fair Hearing Data Sheet. Therefore, I disagree with the ALJ's finding that Petitioner's appeal was out of time, and find that Petitioner's appeal was timely. See Initial Decision at 6.

Additionally, the Agency terminated Petitioner's EA benefits contending that because it had paid for more than 90 days of shelter placement, and Petitioner had not found permanent housing, that her EA benefits must be terminated. See Exhibit R-1. However, there is no EA regulation that requires such a termination. Therefore, I find that the Agency improperly terminated Petitioner's EA benefits on that basis.

The record does indicate, however, that Petitioner has received 12 months of EA benefits. *Id.* at 3. Therefore, for Petitioner to receive continued EA benefits, she must be eligible for an extension of EA benefits under the extreme hardship extension, set forth at N.J.A.C. 10:90-6.4. Therefore, I am remanding the matter back to the Agency to reevaluate Petitioner for an extension of EA benefits under that provision.

Upon the instruction of the ALJ, a copy of the Initial and Final Decisions shall be forwarded to the Division of Child Protection and Permanency ("DCP&P"), f/k/a DYFS.

Accordingly, the Initial Decision is REJECTED, the Agency's action is REVERSED, and the matter is REMANDED back to the Agency based on the discussion above.

DEC 21 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director