



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

FINAL DECISION

OAL DKT. NO. HPW 3432-15 K.G.

AGENCY DKT. NO. C049148 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits under the Housing Hardship Extension ("HHE") pilot. The Agency terminated Petitioner's EA benefits because Petitioner did not meet the criteria for an extension of EA benefits under HHE. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing.

On March 17, 2015, the Honorable Bruce M. Gorman, Administrative Law Judge, held an emergent plenary hearing, took testimony, and admitted documents. On March 17, 2015, Judge Gorman limited the hearing to Petitioner's emergent issue of imminent homelessness, and issued an Initial Decision, ordering the Agency to provide Petitioner with shelter placement should she be rendered homeless by execution of the Warrant of Removal. See Initial Decision at 3-4. Further, because the record was not adequate enough for Judge Gorman to make a ruling on the full merits of the case, he adjourned the hearing to allow time for the record to be completed. *Id.* at 3.

On April 21, 2015, the previously adjourned hearing was continued before the Honorable W. Todd Miller, Administrative Law Judge ("ALJ"), wherein, he took testimony, and admitted documents. On April 22, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

Exceptions to the Initial Decision were filed by Petitioner on May 6, 2015, which was comprised of an Order for Orderly Removal that scheduled Petitioner's eviction for Noon of May 5, 2015.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

Pursuant to N.J.A.C. 10:90-9.1(b), an Agency must provide both adequate and timely notice advising of a termination, denial or suspension of welfare benefits. In part, adequate notice is a written notice outlining the intended action, the reasons for the action, and an explanation of the individual's right to request a fair hearing. See N.J.A.C. 10:90-9.1(a). Timely notice is defined as "a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action." N.J.A.C. 10:90-9.1(b)(1). When the Agency's decision adversely affects a benefits recipient, there cannot be a change to the recipient's benefits until 10 calendar days after the mailing date of the notice. N.J.A.C. 10:90-9.1(c).

N.J.A.C. 10:90-9.3(e), in pertinent part, states, "When a request for a fair hearing is made within 15 calendar days from the date of mailing of a notice of termination, suspension, or reduction, benefits shall continue at an unreduced level until the scheduled date of the administrative hearing or the date of the administrative review, unless the recipient waives such entitlement or requests postponement of the scheduled hearing or review date."

In the event a WFNJ/TANF recipient does not qualify for an "extreme hardship" extension or has exhausted all of the "extreme hardship" extensions, she may qualify for HHE, which expands upon the granting of EA extensions for TANF recipients. 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 on EA and the two, six-month 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 12 months of EA benefits. *Ibid.* Thus, the maximum amount of EA benefits that Petitioner may receive is 36 months.

According to the record, Petitioner receives \$488 per month in Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and her rent is \$449.35 per month. See Initial Decision at 2. Petitioner owns her mobile home, rents the land it is on, and is currently 12 months behind in her rent. *Id.* at 2, 13. Additionally, the record indicates that Petitioner has received 27 months of EA benefits. *Id.* at 11. Pursuant to the above cited regulations, Petitioner would be eligible for an additional nine months of EA benefits under HHE.

Here, the ALJ found, and I concur, that Petitioner did not receive timely and adequate notice from the Agency in May of 2014, when her EA benefits were terminated. *Id.* at 12-13; see also N.J.A.C. 10:90-9.1(a),(b). Therefore, Petitioner did not have an opportunity to request a fair within the 15 days allotted for continued EA

benefits, pending the outcome of a hearing, see N.J.A.C. 10:90-9.3(e), and, consequently, she is now facing imminent homelessness for nonpayment of rent. However, while I recognize the unfortunate situation resulting from the lack of adequate notice, I do not have the authority to provide Petitioner with EA benefits over the allowable limit of 12 months as set out in HHE. See N.J.A.C. 10:90-6.9.

Accordingly, because defective notice was found, and because it appears from the record that Petitioner is eligible for an additional nine months of EA benefits under HHE, see Initial Decision at 12, the Agency is to provide Petitioner with nine months of EA benefits under HHE. However, the Agency and Petitioner are directed to meet and discuss what form of EA is in the best interest of Petitioner. For instance, if nine months of EA is paid toward back rent, does Petitioner have the funds to pay the remaining three months of back rent, as well as the rent going forward; or would Petitioner be better served if her EA benefits went toward a security deposit and a few months rent on an affordable apartment.

Of note, it appears that Petitioner is not eligible for the Housing Assistance Program pilot because she is employable, has not been determined permanently disabled, nor is she a Supplemental Security Income applicant or recipient. See N.J.A.C. 10:90-6.10(a)(1)(i); see also Initial Decision at 8.

As the record indicates that Petitioner has an open case with the Division of Child Protection and Permanency ("DCP&P"), a copy of the Initial and Final Decisions shall be forwarded to DCP&P to ensure the health, safety, and welfare of Petitioner's children.

By way of comment, since this Final Agency Decision addresses the issue set out in the previous March 17, 2015, fair hearing, there was no need to address it further.

By way of further comment, as it appears from Petitioner's Exceptions that she may have been evicted, if such be the case, the Agency is directed to provide Petitioner with immediate shelter placement. Additionally, it appears from the record that Petitioner may have substance abuse and mental health issues. See Initial Decision at 3-4. Therefore, the Agency is directed to schedule Petitioner for a mental health assessment, and refer Petitioner to any and all agencies able to assist her with her current situation.

Accordingly, the Initial Decision is ADOPTED and the Agency's action is REVERSED.

MAY 12 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director