



State of New Jersey

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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 11676-14 M.U.

AGENCY DKT. NO. GA132641 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits because she had exhausted her lifetime limit of EA. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On September 30, 2014, the Honorable Tiffany M. Williams, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents.

On October 9, 2014, the ALJ issued an Initial Decision, which reversed the Agency's denial and remanded the matter to the Agency for reconsideration of Petitioner's eligibility for an extension of EA. See Initial Decision at 3. The ALJ found the record was unclear as to whether the Agency properly evaluated Petitioner's request for both an extreme hardship extension and an extension under the Housing Assistance Program ("HAP") pilot. Ibid.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record for this matter and the ALJ's Initial Decision, and I hereby MODIFY the ALJ's Initial Decision. I am modifying the Initial Decision as I disagree with the ALJ that the Agency's Adverse Action Notice, Exhibit R-2, was unclear. However, I agree with the ALJ that the record lacks clarity regarding Petitioner's eligibility for an extreme hardship extension as discussed below, and as such, I am REMANDING to the Agency for further clarification and consideration.

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The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). EA benefits are limited to 12 months, plus limited extensions for "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. Specifically, a Work First New Jersey/General Assistance ("WFNJ/GA") recipient may qualify for an additional six months of EA when an "extreme hardship" exists. Ibid. Thus, the maximum amount of EA a WFNJ/GA recipient may receive is 18 months.

According to the Initial Decision, Petitioner, a WFNJ/GA recipient, has received 17 months of EA. Therefore, Petitioner has exhausted her 12-month lifetime limit of EA. However, the record is unclear as to whether or not Petitioner has exhausted her one 6-month extreme hardship extension. Unfortunately, the payment history submitted by the Agency lacks clarity regarding the total number of EA units Petitioner has received over the lifetime of her case. See Exhibit R-1. Therefore, I am remanding this matter to the Agency to clarify the total amount of EA Petitioner had received, and consideration for an extreme hardship extension.

Also, the Initial Decision indicates Petitioner sought EA under HAP. I note that based upon the record before me, it appears that Petitioner is not eligible for the HAP 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). Nor would Petitioner be eligible for an extension of EA under the Housing Hardship Extension ("HHE") pilot program because she is a WFNJ/GA recipient. A threshold qualification for the HHE pilot is that the applicant must be a WFNJ/Temporary Assistance for Needy Families recipient. See N.J.A.C. 10:90-6.9.

By way of comment, the ALJ takes issue with the Agency representative's lack of personal knowledge of this matter because she was not the actual worker who processed Petitioner's EA application. For purposes of clarification, the Agency representative "must have knowledge of the matter at issue and must be able to present the agency case" at the fair hearing. N.J.A.C. 10:90-9.12(b). Hence, so long as the Agency representative is familiar with the case and can articulate the Agency's position and reasoning for any action, the Agency representative need not be the actual staff who have processed or made the decision on Petitioner's application for benefits.

Accordingly, the Initial Decision is MODIFIED and the matter is REMANDED to the Agency for clarification and re-evaluation as outlined above.

Signed Copy on File
at DFD, BARA

DEC - 3 2014

Jeanette Page-Hawkins
Director