



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
Director
Tel. (609) 588-2000

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 580-15 R.S.

AGENCY DKT. NO. C081859 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of her request for Emergency Assistance ("EA") benefits. The Agency denied Petitioner's request for EA benefits because she has exceeded her lifetime limit of EA and is not eligible for an extension under either the Housing Assistance Program ("HAP") pilot or the Housing Hardship Extension ("HHE") pilot. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 16, 2015, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 20, 2015, the ALJ issued an Initial Decision, which affirmed the Agency's action.

No exceptions to the Initial Decision were received.

I have considered the record for this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I REJECT the Initial Decision, REVERSE the Agency's Decision and REMAND back to the Agency.

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 to self-sufficiency. N.J.A.C. 10:90-6.1(a). EA is available where the assistance unit is in a "state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing." N.J.A.C. 10:90-6.1(c).

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; N.J.S.A. 44:10-51. Specifically, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient 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 a WFNJ/TANF recipient may receive is 24 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 HHE, which expands upon the granting of EA extensions for 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 benefits. Ibid.

HAP is a pilot program which also expands upon the granting of EA extensions. HAP was designed to provide additional housing assistance 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); see also N.J.A.C. 10:90-6.10(a)(1). To be eligible for HAP, one or more criteria must be met. N.J.A.C. 10:90-6.10(a)(i). One of the criteria is that the recipient can demonstrate that they have "applied for and is either pending approval or appealing a denial of Retirement, Survivors and Disability Insurance ("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. 10:90-6.10(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).

Consistent with WFNJ, the Family Violence Option ("FVO") Initiative's goal is to transition WFNJ recipients, who are victims of domestic violence, "from dependency on WFNJ [...] cash assistance benefits to employment and self-sufficiency." N.J.A.C. 10:90-20.1(a). The FVO Initiative allows an individual to request EA due to domestic violence, as well as request the waiver of program or time-limit requirements. N.J.A.C. 10:90-20.1(d). The FVO Initiative does not authorize the provision of EA

benefits indefinitely based on an individual's history of domestic violence. See e.g. DFDI #12-12-05 (expressing FVO "grants 'good cause' temporary waivers of WFNJ program requirements to [WFNJ] applicants/recipients"). Any waiver under the FVO Initiative is based on need as determined by a risk assessment. See N.J.A.C. 10:90-20.2(a)(2)(iv), -20.7, -20.9 and DFDI #12-12-05; see also 45 C.F.R. 260.55. An individual is re-evaluated for their continued need for a waiver at least every six months or sooner depending on an individual's circumstances. See N.J.A.C. 10:90-20.9(c); see also 45 C.F.R. 260.55.

Here, I agree with the ALJ that Petitioner has exhausted her lifetime limit of EA benefits. As of July 30, 2011, Petitioner had received thirty-one months of EA benefits. See Initial Decision at 2. Thus, Petitioner, a WFNJ/TANF recipient, has received the maximum amount of EA permitted under the regulations as outlined above.

Additionally, to the extent that Petitioner applied for an extension of EA under HAP, I agree that Petitioner is ineligible for HAP. Specifically, Petitioner is ineligible for HAP because she is not disabled, nor has she applied for, or been denied SSI. See Initial Decision at 6; see also N.J.A.C. 10:90-6.10(a)(1).

Also, to the extent that Petitioner applied for an extension of EA under the HHE pilot, I agree that Petitioner is also ineligible for HHE. Specifically, Petitioner is ineligible for HHE because she is not considered employable or eligible to engage in WFNJ activity pursuant to her Domestic Violence ("DV") risk assessment waiver. See Initial Decision at 5; see also N.J.A.C. 10:90-6.9(b)(2).

However, the record indicates that Petitioner may very well be eligible for a waiver of the EA time limit under the FVO Initiative. In the present matter, it does not appear that the Agency considered Petitioner's eligibility for a FVO Initiative waiver of the EA time limit. The record clearly indicates that at the time of her application she had undergone an FVO Risk Assessment. See Exhibit R-1 at 40. This Risk Assessment Report clearly states that the imposition of an EA time limit would place the recipient at risk for further domestic violence. *Ibid.* Notably, this matter was never addressed at the hearing.

Therefore, I am remanding this matter for the Agency to immediately evaluate Petitioner's eligibility for a waiver of the EA time limit under the FVO Initiative in accordance with N.J.A.C. 10:90-20.1 et seq. If found eligible for a waiver of the EA time limit, the Agency retains discretion to determine and provide the most appropriate form of EA to address Petitioner's situation. See N.J.A.C. 10:90-6.3(a). However, the Agency is reminded that Temporary Rental Assistance is the preferred form of EA in all circumstances, as appropriate. N.J.A.C. 10:90-6.3(a)(6).

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As the record indicates that Petitioner may have 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.

Accordingly, the Initial Decision is REJECTED, the Agency's action is REVERSED and this matter is REMANDED back to the Agency to expeditiously reevaluate Petitioner's eligibility for an extension of EA benefits pursuant to the FVO Initiative as discussed above.

Signed Copy on File

at DFD, BARA

JAN 26 2015

Jeanette Page-Hawkins
Director