



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

FINAL DECISION

OAL DKT. NO. HPW 1393-15 W.T.

AGENCY DKT. NO. GA37585 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits under the Housing Assistance Program ("HAP") pilot. The Agency denied Petitioner EA benefits under HAP because he, purportedly, used his lifetime limit of EA benefits and all available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 9, 2015, the Honorable Barry E. Moscowitz, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 10, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

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 ALJ's Initial Decision and the record, and I ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

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 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 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/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 that a WFNJ/GA benefits recipient may receive is eighteen months.

If a WFNJ/GA recipient exhausts their lifetime limit for EA benefits, the recipient may receive additional EA benefits under HAP, which is a pilot program that expands upon the extensions of EA benefits. HAP was designed to provide additional housing assistance for up to twenty four months 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). To be eligible for the 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). However, a WFNJ or SSI recipient who has received an EA penalty, without a showing of good cause for his actions or inactions, within the 12-month period prior to applying for HAP, is ineligible for the program. N.J.A.C. 10:90-6.10(b)(2).

It is important to note that HAP became effective on July 2, 2012. See 44 N.J.R. 1897(a). Prior to that date, a different pilot program, the Supportive Housing Assistance Program ("SHAP"), was in effect. Under SHAP, dependent upon whether a benefits recipient was employable or permanently disabled, EA extensions could be given beginning from up to twelve months, to a maximum of thirty six months. See 43 N.J.R. 2715(a). When HAP went into effect, WFNJ recipients were evaluated for further eligibility for the pilot program. See DFDI 12-07-02. Therefore, based upon the amount of EA benefits that could potentially be awarded under the pilot program, merely counting a benefit recipient's months of EA cannot adequately establish if they have received the maximum EA to which they may be entitled.

The record indicates that Petitioner is a WFNJ/GA recipient who has received sixty months of EA benefits, thereby exhausting his 12 month lifetime EA limit and applicable extreme hardship extension. See Initial Decision at 1,3; see also N.J.A.C. 10:90-6.4. However, there is insufficient evidence in the record that indicates Petitioner has exhausted his potentially available EA benefits under HAP. See Initial Decision at 4; see also N.J.A.C. 10:90-6.10.

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Moreover, Petitioner has provided a MED-1 form to the Agency documenting his twelve-month disability, and is currently appealing the denial of SSI. See Initial Decision at 1, 3; see also N.J.A.C. 10:90-6.10(1)(i). Further, the record indicates that Petitioner is homeless. See Initial Decision at 2. Although the record shows that Petitioner previously incurred a six-month EA penalty, it has since expired, on January 10, 2015. See *id.* at 4. Accordingly, it appears from the record that Petitioner is eligible for additional EA benefits under HAP. Therefore, I concur with the ALJ's determination.

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

FEB 25 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Deputy Director