



State of New Jersey

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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

FINAL DECISION

OAL DKT. NO. HPW 14251-18 D.K.

AGENCY DKT. NO. C089883003 (BURLINGTON COUNTY BD. 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 exhausted her lifetime limit of EA benefits, and had failed to secure permanent housing in accordance with the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 22, 2018, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 13, 2018, 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, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and AFFIRM the Agency's determination, as discussed below.

Here, the record reflects that Petitioner had exhausted her lifetime limit of EA benefits, and was approved for an extension of EA benefits under PHASE. See Initial Decision at 2-3; see also Exhibit R-11, and N.J.A.C. 10:90-6.4(a), (b), (c). At the time Petitioner was approved for PHASE, she was living in, and continues to reside in, a hotel placement. See Initial Decision at 3; see also Exhibit R-3. On July 28, 2018, Petitioner executed an EA service plan ("SP") wherein she agreed to seek, and to continue to search for, affordable housing, and also executed a separate PHASE agreement on July 30, 2018, wherein she was advised that she was required to secure permanent housing within 60 days of entering into the PHASE agreement, by October 1, 2018. See Initial Decision at 2; see also Exhibits R-5, R-6, R-8, and N.J.A.C. 10:90-6.6(a), -6.9. However, Petitioner failed to secure permanent housing. See Initial Decision at 4-5. PHASE regulatory authority only allows the Agency to pay for hotel/motel/shelter housing for a period of 60 cumulative days during a recipient's lifetime on PHASE. See Initial Decision at 4; see also N.J.A.C. 10:90-6.9(a)(7). The ALJ found that Petitioner had exhausted her lifetime limit of EA benefits, and had failed to procure permanent affordable housing, without good cause, in violation of her SP, and as required under PHASE. See Initial Decision at 4-5. Based on the foregoing, the ALJ concluded that Petitioner is ineligible for EA benefits under PHASE, and that the Agency's termination of Petitioner's EA benefits was proper and must stand. *Id.* at 5-6; see also Exhibit R-1, and N.J.A.C. 10:90-6.6(a), -6.9.

I agree with the ALJ's conclusion that Petitioner is ineligible for EA benefits under PHASE for failing to secure permanent affordable housing within 60 days of the date of her PHASE agreement. However, I do not find that Petitioner failed to comply with her SP. See Initial Decision at 4-5. Specifically, based upon an independent review of the record, I find that Petitioner's SP did not require her to secure permanent housing by October 1, 2018, as opined by the ALJ, but rather, it



only mandated that she seek and continue to search for affordable housing, which Petitioner had testified to doing. See Initial Decision at 4-5; see also Exhibit R-6. Moreover, the Agency's adverse action notice does not reference that its termination of Petitioner's EA benefits was based on an SP violation, as required by regulatory authority. See Exhibit R-1; see also N.J.A.C. 10:90-9.1(a). The Initial Decision is modified to reflect this finding.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

By way of further comment, Petitioner is advised that should she find permanent affordable housing, she may reapply for an extension of EA benefits under PHASE provided she continues to need said benefits. See N.J.A.C. 10:90-6.1 et seq., -6.9.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED, as outlined above.

Officially approved final version. **DEC 20 2018**

Natasha Johnson
Director

