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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 07556-18 E.R.

AGENCY DKT. NO. C440379007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits. The Agency denied Petitioner an extension of EA benefits, contending that that she had exhausted her lifetime limit of EA benefits, plus all available extensions, and was not eligible for any further extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 30, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 31, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on June 4, 2018.

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 REVERSE the Agency's determination.

Under the Work First New Jersey ("WFNJ") regulations, EA benefits are limited to 12 cumulative months during the lifetime of a case, plus limited extensions. See N.J.A.C. 10:90-6.4(a) and -6.4(b). A WFNJ/Temporary Assistance for Needy Families ("TANF") recipient may qualify for up to two six-month extensions of EA benefits when an "extreme hardship" exists pursuant to the criteria set forth in N.J.A.C. 10:90-6.4(b)(1). See N.J.A.C. 10:90-6.4(d). Thus, the maximum amount of EA benefits that a WFNJ/TANF benefits recipient may receive is 24 months.

N.J.A.C. 10:90-6.3(a)(4)(i) allows for three occasions of payments for furniture deemed "urgent and essential to the physical health and well-being of the individual or family," including, but not limited to, "refrigerator, a dinette set, kitchen equipment, lamps, beds, cribs, chest of drawers and bed and bath linens." A maximum allowance is established for such items based upon the size of the household. Ibid. Subsection (4)(ii) of the same regulation further states that "[r]eplacement of house furnishings is not solely limited to replacement of items lost or destroyed in the incident that gave rise to the emergency. For example, a recipient may be moving from a hotel/motel shelter or furnished apartment into an unfurnished living arrangement where there is no essential furniture. Likewise, when an item



which is essential for the recipient's health and well-being, such as a refrigerator, wears out, EA funds may appropriately be used to replace it." See N.J.A.C. 10:90-6.3(a)(4)(ii).

Finally, N.J.A.C. 10:90-6.4(a)(3) states that one allowance for "single replacement items of furniture" shall not count towards a recipient's maximum lifetime limit of EA benefits.

In the present matter, it is undisputed that Petitioner has presently received 24 months of EA benefits, including one furniture voucher, issued on May 20, 2011. See Initial Decision at 2; see also Exhibit R-1. The issue presented is whether or not the one furniture voucher payment should count towards Petitioner's lifetime limit of EA benefits. See Initial Decision at 2.

The ALJ in this matter asserts that the furniture voucher issued in May of 2011, was issued to Petitioner at the beginning of Petitioner's lease, and that the furniture voucher was necessary to make the apartment habitable. See Initial Decision at 3, 5. The ALJ further maintains that it would be "grossly unfair to count any month of rental assistance if the assistance was for an uninhabitable apartment." See *id.* at 5. While I agree with the ultimate conclusion of the ALJ in this case, based on the language of the regulations referenced above, I do not find the conclusion supported by the asserted habitability argument.

An independent review of the record reveals that in April 2011, the Agency made three separate payments for Emergency Assistance in the form of Temporary Rental Assistance ("TRA"). See Exhibit R-1. I take official notice of the fact that the three separate April 2011 EA payments are denoted with a pay type of "56," thereby reflecting said payments are for TRA. *Ibid.*; see also N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). Interestingly, there is no indication of a security deposit payment by the Agency at that time, or in the months prior, but rather, only the three separate payments for TRA in April 2011, then another in May 2011, as denoted by the "R" code next to the check number. See Exhibit R-1. As such, I find it reasonable that Petitioner had already been residing in the apartment for several months at least, and that the voucher for furniture constituted "single replacement items of furniture." Therefore, I find that the payment for furniture, denoted by the pay type "50," made on May 20, 2011, is one that shall not count towards Petitioner's lifetime limit of EA benefits, pursuant to N.J.A.C. 10:90-6.4(a)(3). The Initial Decision is modified to reflect this finding.

By way of comment, Petitioner is hereby put on notice that only one month of EA benefits shall be issued by the Agency, and that based upon the record presented, she does not presently qualify for any further extensions of EA benefits.

Also by way of comment, I have reviewed the Exceptions submitted by the Agency and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

JUN 07 2018

Natasha Johnson
Director

