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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

FINAL DECISION

OAL DKT. NO. HPW 04191-18 T.P.

AGENCY DKT. NO. C206006013 (MONMOUTH COUNTY DIV. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that she has exhausted her lifetime limit of EA benefits, and that she caused her own homelessness by failing to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 23, 2018, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 26, 2018, the ALJ issued an Initial Decision, affirming the Agency's denial of EA benefits to Petitioner, and reversing the Agency's imposition of a six-month EA ineligibility penalty.

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 in part, and REVERSE in part, the Agency's determination as discussed below.

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/General Assistance ("WFNJ/GA") recipient may qualify for up to an additional six months 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(c). Thus, the maximum amount of EA benefits that a WFNJ/GA benefits recipient may receive is 18 months. A WFNJ/Temporary Assistance for Needy Families ("TANF") benefits recipient may qualify for a second six month extreme hardship extension, thereby bringing the total amount of EA benefits that a WFNJ/TANF recipient may receive to 24 months. See N.J.A.C. 10:90-6.4(d).

Here, the record reflects that Petitioner is currently a WFNJ/GA benefits recipient who has received 87 months of EA benefits. See Initial Decision at 2, 6; see also Exhibits R-5 through R-8. The record further reveals that Petitioner previously received WFNJ/TANF benefits. See Exhibit R-5. As such, it is clear that Petitioner has exhausted her lifetime limit of EA benefits, including two additional six months of EA benefits under an extreme hardship extension. See N.J.A.C. 10:90-6.4(a), (b), (d). The ALJ in this matter concluded that the Agency's denial of EA benefits to Petitioner, based on exhaustion of EA benefits beyond the lifetime limit, was proper and must stand. See Initial Decision at 6, 7; see also Exhibit R-11. Nevertheless, the ALJ concluded that Petitioner may be eligible for an additional six-month extension of EA benefits pursuant to N.J.A.C. 10:90-6.4(b)(2), if she can provide proof that she is represented by an attorney in her Supplemental Security Income ("SSI") benefits appeal. See Initial Decision at 6; see also Exhibit R-10. However, I find the ALJ's conclusion in this regard to be misplaced, as there exists no regulatory authority by which the Agency



may grant Petitioner additional EA benefits pursuant to N.J.A.C. 10:90-6.4(b)(2), after taking into consideration the total amount of EA benefits Petitioner has received; Petitioner exhausted the two available extreme hardship extensions under -6.4(b) and (d) some time ago. See Initial Decision at 6. Rather, I find that Petitioner may be eligible for additional EA benefits pursuant to the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program, provided she has proof of attorney representation in her SSI appeal, and that she has a MED-1 form indicating a 12-month disability. See Initial Decision at 6; see also N.J.A.C. 10:90-6.9. The Initial Decision is modified to reflect these findings.

Further, I concur with the ALJ's conclusion that the Agency's imposition of a six-month EA ineligibility penalty was improper and must be reversed. See Initial Decision at 7; see also Exhibit R-11, and N.J.A.C. 10:90-6.1(c)(3). Moreover, I find that Petitioner's March 2017, eviction, and alleged failure to plan for alternative housing, too remote in time to find that Petitioner caused her own homelessness, such that it warrants a denial of EA benefits based on a failure to plan and the imposition of a six-month EA ineligibility penalty. See Initial Decision at 4-5, 7.

By way of comment, Petitioner may reapply for EA benefits under PHASE. See N.J.A.C. 10:90-6.9.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is AFFIRMED in part, and REVERSED in part, as outlined above.

Officially approved final version.

MAR 29 2018

Natasha Johnson
Director

