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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 **14040-24 B.T.**

AGENCY DKT. NO. **C166079009 (HUDSON COUNTY DEPT OF FAM SVCS)**

Petitioner appeals from the Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits, and consequent termination of her EA benefits. The Agency denied Petitioner an extension of EA benefits, contending that she had exhausted her lifetime limit of said benefits, plus all applicable extreme hardship extensions, and denied Petitioner an extension of EA benefits pursuant to N.J.S.A. 44:10-51(a)(3), also known as Emergency Assistance for Specific Groups ("EASG"), contending that she did not meet the eligibility criteria for said extension. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 9, 2024, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 10, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018 ("S866"), and the State of New Jersey Senate Bill, No. S3960, P.L. 2023, c. 198, effective December 21, 2023 ("S3960"), now codified at N.J.S.A. 44:10-51(a)(3), also known as EASG, extends EA benefits eligibility for certain categories of individuals, including, but not limited to Work First New Jersey ("WFNJ") benefits recipients who are the sole caretaker of a disabled or seriously ill child or family member, as documented by a twelve (12) month WFNJ 5S-DEP ("MED-5") form, and adult Supplemental Security Income ("SSI") benefits recipients. See DFD Instruction ("DFDI") No. 24-03-01.

If the termination of EA benefits for exhaustion of time limits would unfairly penalize an EA benefits recipient who is, or has been, a victim of domestic violence ("DV"), or who is at risk of further family violence, then the cumulative 12-month lifetime limit of EA benefits shall be deferred for up to six months. See N.J.A.C. 10:90-6.4(f).

Consistent with the WFNJ regulations, the goal of the Family Violence Option Initiative ("FVO") 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 allows an individual to request the waiver of WFNJ program or time-limit requirements. See N.J.A.C. 10:90-20.1(b), and -20.4(a)(7). The FVO does not authorize the provision of WFNJ benefits indefinitely based on an individual's history of domestic violence. See DFDI No. 12-12-05 (expressing that FVO "grants 'good cause' temporary waivers of WFNJ program requirements to [WFNJ] applicants/recipients"). Any waiver under the FVO is based on need as determined by a risk assessment. See N.J.A.C. 10:90-20.2(a)(2)(iv), -20.6, -20.8 and



DFDI 12-12-05. 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. 10:90-20.8(c). When an EA benefits applicant advises that they have a history of domestic violence ("DV"), the Agency shall formally refer the individual for an FVO risk assessment, so that a certified victim service provider may assess the individual's level of DV risk and coordinate same with any services offered by the Agency. See N.J.A.C. 10:90-20.1(a) and -20.1(b)(1).

Here, based on an independent review of the record, I find that Petitioner had received a seven-year disregard of certain EA benefits, and thereafter, to date, she has received 24 months of EA benefits which includes two six-month extreme hardship extensions of said benefits, and as such, she has exhausted her lifetime limit of EA benefits. See Initial Decision at 2; see also Exhibit R-4, R-5, and N.J.A.C. 10:90-6.4(a), (b), (c), (d), N.J.S.A. 44:10-51(a)(4) (also known as [EA] 7-Year Disregard which provides, in part, that "all months of emergency assistance received more than 84 months from the date of application for emergency assistance shall not be counted toward the cumulative 12-month limit of emergency assistance"), and DFDI No. 19-07-01. Thereafter, Petitioner applied for an EASG extension of EA benefits, indicating that she was the sole care taker of a disabled child. See Initial Decision at 2-3; see also Exhibit R-3. However, the record is silent as to whether or not Petitioner is a WFNJ or SSI benefits recipient, a requirement for EASG eligibility, and as such, I find that Petitioner may not be eligible for said extension. See N.J.S.A. 44:10-51(a)(3), and DFDI 24-03-01. Therefore, regardless of the ALJ's findings that the Agency failed to assist Petitioner in her EASG application, by failing to provide her with a sole caretaker MED-5 form, and on that basis reversed the Agency's termination of her EA benefits, I find that Petitioner, nonetheless, may not be ineligible for an EASG extension of EA benefits, as discussed above. See Initial Decision at 3-4; see also Exhibits R-2, R-3, and N.J.S.A. 44:10-51(a)(3), and DFDI 24-03-01. Accordingly, I am remanding the matter to the Agency to determine if Petitioner is a WFNJ or SSI benefits recipient, and if she is, to provide her with the required MED-5 form, and to reconsider her EASG application for an EASG extension of EA benefits. See Initial Decision at 5. However, if it is determined that Petitioner is neither a WFNJ or SSI benefits recipient, then the Agency's denial of an EASG extension of EA benefits, and its consequent termination of Petitioner's EA benefits, must stand. See Exhibits R-2. The Initial Decision is modified to reflect these findings.

Additionally, because Petitioner testified that she has been the victim of DV, the ALJ determined that Petitioner may be eligible for an extension of EA benefits in accordance with N.J.A.C. 10:90-6.4(f), which the Agency failed to consider, and as such, directed the Agency to refer Petitioner for an FVO risk assessment to determine whether a further extension of EA benefits is warranted. See Initial Decision at 3-5. However, as it is unclear from the record whether or not Petitioner is a WFNJ benefits recipient, a requirement for an FVO waiver of EA time limits, I also remand the matter to the Agency to determine if Petitioner is a WFNJ benefits recipient, and if she is, to refer her for an FVO risk assessment, the outcome of which will determine Petitioner's eligibility for an FVO waiver of EA time limits. See N.J.A.C. 10:90-20.1(a), (b), -20.2(a)(2) (iv), -20.4(a)(7), and DFDI 12-12-5. However, if it is determined that Petitioner is not a WFNJ recipient, then, on that basis, the Agency's termination of Petitioner's EA benefits must stand. The Initial Decision is modified to reflect these findings.

By way of comment, the Agency is directed to provide Petitioner with immediate need assistance, pending the reevaluation of Petitioner's eligibility for an EASG extension of EA benefits, and/or eligibility for an FVO extension of EA benefits. See N.J.A.C. 10:90-1.3(a)(2).

Accordingly, the Initial Decision is MODIFIED, the Agency's action is REVERSED, and the matter REMANDED to the Agency, as outlined above.

Officially approved final version. October 17, 2024

Natasha Johnson
Assistant Commissioner

