



## State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT  
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TRENTON, NJ 08625-0716

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*Assistant Commissioner*

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 13781-24 R.B.

AGENCY DKT. NO. C071846003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") benefits, the termination of her Emergency Assistance ("EA") benefits, and the denial of an extreme hardship extension, and Emergency Assistance for Specific Groups ("EASG") extension of EA benefits. The Agency terminated Petitioner's WFNJ/GA benefits, contending that she had exhausted her lifetime limit of EA benefits, and did not qualify for an exemption from said time limits. The Agency terminated Petitioner's EA benefits because she had exhausted her 12-month life-time limit of said benefits, and subsequently, denied Petitioner an extension of EA benefits, contending that she did not meet the criteria for any available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. Petitioner was initially scheduled for a hearing on September 12, 2024, but withdrew that fair hearing request. Thereafter, Petitioner filed another fair hearing request, and on October 8, 2024, the Honorable Rebecca C. Lafferty, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 9, 2024, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on October 10, 2024.

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, AFFIRM the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Pursuant to N.J.A.C. 10:90-6.1(c)(1)(iii), a lack of a realistic capacity to engage in advance planning shall be said to exist "[w]hen the assistance unit demonstrates functional incapacity, for example evidence of alcohol or drug abuse, or a mental or cognitive impairment that would prevent them from planning for or securing substitute housing. When additional barriers are identified, the recipient shall be referred to appropriate services [which may include a referral to the Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") program]. Individuals granted EA on this basis must agree, as part of their service plan, (see N.J.A.C. 10:90-6.6 concerning development of a service plan) to engage in appropriate treatment for their addiction or other impairments that may limit their ability to function. Such treatment for addiction or incapacitating condition shall also be included in the IRP [Individual Responsibility Plan] in order to coordinate the requirements contained in the IRP." See also N.J.A.C. 10:90-6.6(a)(1)(iii)(7), and DFD Instruction ("DFDI") No. 03-11-6 at 5, DFDI No. 08-5-4 at 8-9.

N.J.A.C. 10:90-6.2(a) provides that WFNJ cash recipients and Supplemental Security Income ("SSI") recipients are eligible for EA benefits.



Here, the record reflects that, at the time of the October 8, 2024, hearing, Petitioner was receiving WFNJ/GA benefits, and as that issue was moot, it was not addressed in the Initial Decision, and is addressed in this Final Agency Decision. See Initial Decision at 1, 3, 5. The only issue before the ALJ was the denial of an extreme hardship extension and EASG extension of EA benefits, and the consequent termination of Petitioner's EA benefits. The record reflects that at the time of the Agency's denial of an extension of EA benefits to Petitioner, and the consequent termination of her EA benefits, she was not a WFNJ or SSI benefits recipient, a threshold requirement for EA benefits, and on that basis, alone, I concur with the ALJ's conclusion that the Agency's denial of an extension of EA benefits to Petitioner, and the subsequent termination of her EA benefits were proper and must stand. See Initial Decision at 9; see also R-1 at Exhibit C, and N.J.A.C. 10:90-6.2(a). The Initial Decision is modified to reflect this finding.

Based on an independent review of the record regarding the Agency's denial of EA benefits to Petitioner, and consequent termination of said benefits, on the bases that she had exhausted her lifetime limit of EA benefits, and did not qualify for an extreme hardship extension or EASG extension of EA benefits, and failed to comply with her SP by failing to participate in the required SAI/BHI program, I find the following.

First, the record indicates that, at the time of the hearing, Petitioner had provided the Agency with a valid 12-month MED-1 form, and proof that an appeal had been filed with the Social Security Administration regarding the denial of SSI benefits. See Initial Decision at 3; see also Exhibit P-1. Accordingly, it appears that Petitioner may now be eligible for an extreme hardship or EASG extension of EA benefits. See N.J.A.C. 10:90-6.4(b)(2) and N.J.S.A. 44:10-51(a)(3); see also DFDI 19-02-01. Second, although the record indicates that Petitioner was noticed on August 20, 2024, of her requirement to participate in an SAI/BHI assessment, needed to determine if Petitioner had barriers prohibiting her from retaining housing, I take official notice that the records of this office indicate that Petitioner last received EA benefits on July 1, 2024, one month prior to the Agency's August 20, 2024, notice to Petitioner, requiring her to participate in an SAI/BHI assessment, and prior to its August 19, 2024, adverse action notice, with an effective termination date of September 19, 2024. See Initial Decision at 4-5; see also R-1 at Exhibit C, R-2, and N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). Based on the foregoing, I am remanding the matter to the Agency to refer Petitioner for an SAI/BHI assessment, on an expedited basis, and to reevaluate Petitioner for an extreme hardship extension of EA benefits, or an extension of EA benefits pursuant to EASG, also on an expedited basis. See N.J.A.C. 10:90-6.4(b)(2), and N.J.S.A. 44:10-51(a)(3). Should Petitioner be determined eligible for an extension of EA benefits, an SP shall be developed within ten days of EA benefits authorization, to include any SAI/BHI program treatment requirement(s). See N.J.A.C. 10:90-6.6(a)(1)(iii)(7). The Initial Decision is modified to reflect these findings.

By way of comment, Petitioner is advised that if she fails to participate in the SAI/BHI program requirements, she may be denied an extension of EA benefits, and a six-month period of ineligibility for EA benefits may be imposed. See N.J.A.C. 10:90-6.6(a). Petitioner is further advised, that if she is again denied an extension of EA benefits, that she may request another fair hearing on that subsequent denial, alone.

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

Officially approved final version. December 10, 2024

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Natasha Johnson  
Assistant Commissioner

