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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

REMAND DECISION

OAL DKT. NO. HPW 00817-18 E.B.

AGENCY DKT. NO. C077559015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of her Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/TANF benefits contending that she had exhausted her lifetime limit of said benefits and did not qualify for an exemption from the WFNJ benefits time limit, and terminated Petitioner's EA benefits because she was not a WFNJ or Supplemental Security Income ("SSI") benefits recipient. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 6, 2018, the Honorable Edward J. Delanoy, Jr., Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The ALJ held the record open for the submission of summations, and on May 1, 2018, the record then closed. On May 18, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

The Agency filed Exceptions to the Initial Decision on May 23, 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, REVERSE the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

Pursuant to N.J.A.C. 10:90-2.3(a), "eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an adult individual recipient." See also N.J.A.C. 10:90-1.1(d) ("Assistance benefits provided under WFNJ are time-limited and considered a temporary cash subsidy[.]"). However, an individual may receive additional months of cash assistance if he or she qualifies for an exemption to, or extension of, the time limit, as set forth at N.J.A.C. 10:90-2.4 and -2.5, respectively.

Only WFNJ cash assistance recipients and SSI benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2.

Under the 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/ TANF benefits



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.

WFNJ benefits recipients who are otherwise eligible for EA benefits, who have a valid MED-1 form, a pending SSI claim, and legal representation, may be eligible for an extension of EA benefits pursuant to the recently promulgated Provisional Housing-Awaiting Supplemental Security Income/Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program. See N.J.A.C. 10:90-6.9.

Here, the record reflects that Petitioner has received 93 months of WFNJ/TANF benefits, and 109 months of EA benefits. See Initial Decision at 2. As such, the Agency terminated Petitioner's WFNJ/TANF benefits because she had exhausted her lifetime limit of said benefits and did not qualify for an exemption from the WFNJ benefits time limit, and terminated Petitioner's EA benefits because she was not a WFNJ or SSI, benefits recipient. See Initial Decision at 3; see also Exhibit R-1, and N.J.A.C. 10:90-2.3, -2.4, -2.5, and -6.2. Petitioner contends that because she had a valid MED-1 form that she qualifies for an exemption from the WFNJ benefits time limit, and should have been approved for continued WFNJ/TANF and EA benefits. The record reflects that Petitioner had presented a MED-1 form to the Agency, after which the Agency requested additional documentation from medical professionals before it would validate her MED-1 form. See Initial Decision at 2; see also Exhibits P-13, P-14, P-18, and R-3. The Agency asked for the additional documentation by December 3, 2017; however, while Petitioner submitted some documentation in that time frame, Petitioner was unable to supply the completed documentation by that time. See Initial Decision at 2-3; see also Exhibits P-16, P-17. Petitioner provided medical records on February 5, 2018, after her WFNJ/TANF and EA benefits had been terminated, effective January 2018. See Initial Decision at 3; see also Exhibits P-3, R-1. The record also reflects that Petitioner has a pending SSI application and legal representation. See Initial Decision at 5; see also Exhibits P-1, P-20. The ALJ found that there was no regulatory authority to support the Agency's requirement that Petitioner provide additional medical documentation besides the MED-1 form, that Petitioner had made an effort to provide the documentation, timely, and that eventually all medical records were forwarded to the Agency. See Initial Decision at 4-5. Based on the foregoing, the ALJ concluded that the Agency's request for additional medical documentation, and its consequent termination of Petitioner's WFNJ/TANF and EA benefits, was improper and must be reversed. See Initial Decision at 5; see also N.J.A.C. 10:90-2.3, -2.4, and -6.2. I agree.

However, because Petitioner has received 109 months of EA benefits, I find that she has exhausted her lifetime limit of EA benefits, plus all available extreme hardship extensions, and as such, in order to receive continued EA benefits Petitioner must qualify for an extension of said benefits in accordance with PHASE. As it appears from the record that Petitioner may be eligible for a continuation of EA benefits under PHASE, I am remanding the matter to the Agency for consideration of such. See N.J.A.C. 10:90-6.9. The Initial Decision is modified to reflect this finding.

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

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's action is REVERSED, and the matter REMANDED to the Agency based on the discussion above.

Officially approved final version. **JUN 05 2018**

Natasha Johnson
Director

