



State of New Jersey

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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 03170-18 L.D.

AGENCY DKT. NO. S779783009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's termination of her Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she had exhausted her lifetime limit of EA, plus all available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 8, 2018, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 9, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on March 13, 2018.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record for this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby ADOPT the Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency based on the discussion 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") benefits recipient may qualify for an additional six months of EA when an "extreme hardship" exists. See N.J.A.C. 10:90-6.4(c). Thus, the maximum amount of EA that a WFNJ/GA benefits recipient may receive is 18 months. *Ibid*.

Consistent with WFNJ, the goal of the Family Violence Option Initiative ("FVO") is to transition WFNJ recipients who are victims of domestic violence ("DV") "from dependency on WFNJ [] cash assistance benefits to employment and self-sufficiency." See N.J.A.C. 10:90-20.1(a). The FVO Initiative allows an individual to request EA benefits due to DV, as well as to request the waiver of WFNJ program or time-limit requirements. See N.J.A.C. 10:90-2.4(a)(5), -6.4(f), and -20.1(a)(iii), (b). The FVO does not authorize the provision of EA benefits indefinitely based on an individual's history of DV. See DFD Instruction ("DFDI") 12-12-05 (expressing that FVO "grants 'good cause' temporary waivers of WFNJ program requirements to [WFNJ] applicants/recipients"). Any waiver under the FVO Initiative is based on need as determined by a risk assessment. See N.J.A.C. 10:90-20.2(a)(2)(iv), -20.7 and -20.9(c). 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).

Here, the record reflects that Petitioner is a WFNJ/GA benefits recipient who has received a total of 24 months of EA benefits through December 2017, six months of which were granted due to DV. See Initial Decision at 2; see also Exhibits R-1, R-3, R-4, and N.J.A.C. 10:90-6.4(f). On September 14, 2017, Petitioner completed an FVO Risk Assessment which indicated that she has "moderate safety issues due to current [DV] or sexual assault" and it was



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recommended that Petitioner be referred for a "Mental Health Assessment, and that she be provided with EA benefits, Transportation, and Work Readiness Activities." See Initial Decision at 3; see also Exhibit R-1. Regardless of those recommendations, the Agency terminated Petitioner's EA benefits, effective December 1, 2017, because she had exhausted her 12-month lifetime limit of EA, plus 12 additional months under an EA extreme hardship extension for a total of 24 months. See Initial Decision at 2; see also Exhibit R-2, and N.J.A.C. 10:90-6.4(a), (b), (c), (f).

However, the ALJ found that Petitioner should be granted additional EA benefits due to the FVO Initiative Risk Assessment finding that Petitioner has moderate safety issues regarding her current DV, and the fact that the Agency failed to refer Petitioner for a mental health assessment, or to provide her with work readiness activities, as recommended in that assessment. See Initial Decision at 3-5; see also Exhibit R-1. Moreover, the ALJ noted that in a prior Final Agency Decision regarding Petitioner, issued on August 10, 2017, DFD had determined that Petitioner was "eligible for further EA benefits contingent upon her agreement to participate in an FVO risk assessment, and being found eligible for an FVO waiver of the EA benefits time limit." See Initial Decision at 3; see also Exhibit J-1, and N.J.A.C. 10:90-20.1 et seq. On that basis, the ALJ in this matter concluded that the Agency had provided no evidence to substantiate its claim that Petitioner has no further eligibility for an extension of EA benefits, and therefore, reversed the Agency's termination of Petitioner's EA benefits. See Initial Decision at 5. I agree.

Further, because the record reflects that Petitioner's FVO Risk Assessment is now six months old, the Agency is directed to refer Petitioner for another FVO risk assessment. See Exhibit R-1, and N.J.A.C. 10:90-20.2(a)(2)(iv), -20.8(c). Additionally, the Agency is also directed to refer Petitioner for a Behavioral Health Initiative ("BHI") assessment. See Initial Decision at 3-5; see also Exhibit R-1. Accordingly, I am remanding the matter to the Agency to refer Petitioner for an FVO risk assessment and a BHI assessment, on an expedited basis.

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.

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

Officially approved final version.

MAR 16 2018

Natasha Johnson
Director

