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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 05940-18 M.O.

AGENCY DKT. NO. S795600009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits contending that Petitioner had not shown good cause to lift a previously imposed six-month period of ineligibility for EA benefits, and that the six-month EA ineligibility penalty was still in effect at the time Petitioner reapplied for EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 2, 2018, the Honorable Michael Antoniewicz, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 3, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were received from Petitioner on May 8, 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.

Here, the record reveals that Petitioner, a Work First New Jersey/General Assistance ("WFNJ/GA") benefits recipient, applied for EA benefits in December of 2017, stating that he lived alone. See Exhibit R-7. On January 17, 2018, Petitioner's application was denied, and a six-month EA benefits ineligibility penalty imposed, as the Agency found that Petitioner withheld information regarding a co-tenant on his EA benefits application. See Initial Decision at 2; see also Exhibit R-1. The Agency testified that the basis of the denial of the December 2017, application for EA benefits, and the imposition of the six-month EA benefits ineligibility penalty, stemmed from Petitioner's statements during an interview that he was living alone, while the Agency provided a tenant verification document revealing that two occupants lived in the apartment. See Initial Decision at 2; see also Exhibits R-1, R-5. Thereafter, in April of 2018, Petitioner submitted another application for EA benefits, listing as a co-tenant his "friend." See Exhibit R-6. The Agency denied the application by notice dated April 18, 2018, finding that Petitioner did not show good cause to lift the previously imposed six-month EA benefits ineligibility penalty. See Exhibit R-3; see also N.J.A.C. 10:90-6.1(c)(3).

Based on the foregoing, the ALJ concluded that Petitioner had misrepresented his living situation in his December 2017, application for EA benefits by stating that he lived alone, and that the Agency's January 17, 2018, denial of EA benefits to Petitioner was proper and must stand. See Initial Decision at 3-4; see also Exhibit R-1, and N.J.A.C. 10:90-1.13(b), -6.1(c)(3). I agree. However, I note that transmittal in this matter clearly reflects that the Agency's April 18, 2018, denial of EA benefits to Petitioner, wherein Petitioner was denied EA benefits because he had not shown good cause for lifting the previously imposed six-month EA ineligibility penalty, is the subject of the present appeal, not the January 17, 2018, denial. See Exhibit R-3. Moreover, I take official notice of the fact that the records of this office reflect that Petitioner did,



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in fact, request a fair hearing on the January 17, 2018, denial of EA benefits, but later withdrew his fair hearing request of that denial. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4).

Therefore, based on an independent review of the record, I find that Petitioner's particular circumstances warrant lifting the remainder of the six-month EA ineligibility penalty imposed upon Petitioner in January 2018. See Exhibits R-1 through R-6, R-8, see also N.J.A.C. 10:90-6.3(i)(1). Accordingly, I reverse the Agency's April 18, 2018, denial of EA benefits to Petitioner, and remand the matter to the Agency to reevaluate Petitioner for EA benefits on an expedited basis, based on his April 4, 2018, EA application, with EA eligibility contingent upon Petitioner's continued eligibility for WFNJ/GA benefits. See Exhibits R-3, R-6; see also N.J.A.C. 10:90-6.2 (stating that only WFNJ and Supplemental Security Income recipients are eligible for EA benefits). The Initial Decision is modified to reflect this finding.

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

Officially approved final version.

MAY 4 2018

Natasha Johnson
Director

