



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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TRENTON, NJ 08625-0716

NATASHA JOHNSON
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

REMAND DECISION

OAL DKT. NO. HPW 08625-19 K.L.

AGENCY DKT. NO. C141298003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits, contending that she had exhausted her lifetime limit of EA benefits, and that she had failed to comply with her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 26, 2019, the Honorable Lisa James-Beavers, Acting Director and Chief Administrative Law Judge ("CALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow the Agency to consider whether Petitioner would be approved for EA benefits based on information provided at the hearing. No such approval occurred, and the record then closed on September 4, 2019. On September 10, 2019, the CALJ issued an Initial Decision, affirming the Agency's determination on the basis that she had exhausted her EA benefits time limit.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the CALJ's Initial Decision and the record, and I hereby ADOPT in part and MODIFY in part the CALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Here, the record reflects that on April 24, 2019, Petitioner executed an SP wherein she agreed, among other things, to conduct housing searches, and to find affordable rental housing within 60 days of the date of the execution of said SP. See Initial Decision at 2-3; see also Exhibit R-4. The Agency contended that Petitioner's housing searches were insufficient and that she had failed to find housing within the 60-day time limit. See Initial Decision at 2-3. Consequently, the Agency terminated Petitioner's EA benefits for failure to comply with her SP. *Id.* at 1; see also Exhibit R-1, and N.J.A.C. 10:90-6.6(a). However, the CALJ found that Petitioner, as well as the father of her children ("E.M."), with whom Petitioner resides, had tried to find permanent housing within that 60-day window, but were unable to do so. See Initial Decision at 3-4. Specifically, the CALJ found, and the record substantiates, that both Petitioner and E.M. had conducted monthly housing searches and submitted those searches to the Agency, had filled out numerous applications for housing and were placed on numerous waiting lists, had applied for Section 8 housing, and had applied for housing in other more affordable states. *Id.* at 3; see also Exhibits R-8, R-9. Based on the foregoing, the CALJ concluded that Petitioner did not violate the terms of her SP by failing to secure permanent housing. *Id.* at 5. Accordingly, the CALJ also concluded that the Agency's termination of Petitioner's EA benefits, on the basis of an SP violation, was improper and must be reversed. *Id.* at 5-6; see also Exhibit R-1. I agree.

The record also reflects that Petitioner has received at least 33 months of EA benefits, and as such, she has exhausted her lifetime limit of EA benefits. See Initial Decision at 2; see also Exhibits R-5, R-6, R-7, and N.J.A.C. 10:90-6.4(a),



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(b). Further, the record shows that Petitioner applied for an extension of EA benefits pursuant to the recently promulgated State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018 ("S866"), which extends EA benefits eligibility for certain categories of individuals. See Exhibit R-3. Also, the record indicates that Petitioner has a 12-month MED-1 form, and E.M. is a Supplemental Security Income benefits recipient. See Initial Decision at 2-3; see also Exhibits R-12, R-13. Nevertheless, the Agency terminated Petitioner's EA benefits on the basis that she had exhausted her lifetime limit of EA benefits, without, it appears, first evaluating her eligibility for an extension of EA benefits pursuant to S866. Rather, it appears from the record that both the Agency, as well as the CALJ, erroneously evaluated Petitioner's eligibility for an extension of EA benefits pursuant to the Provisional Housing-Awaiting Supplemental Security Income/ Social Security/Disability Insurance Eligibility ("PHASE") Pilot Program). See Initial Decision at 4-5; see also N.J.A.C. 10:90-6.9. While I agree with the CALJ's finding, that Petitioner did not qualify for an extension of EA benefits pursuant to PHASE, the record reflects that Petitioner had not applied for a PHASE extension, but rather had applied for an extension of EA benefits pursuant to S866. Ibid. Based on an independent review of the record, it appears that Petitioner is eligible for an S866 extension, and therefore, I am reversing the Agency's termination of EA benefits, and remanding the matter to the Agency to reevaluate Petitioner's eligibility for an extension of EA benefits pursuant to S866, on an expedited basis. See Exhibits R-3, R-12, R-13. The Initial Decision is modified to reflect this finding.

By way of comment, Petitioner is advised that should she be denied an extension of EA benefits pursuant to S866, she may request another fair hearing on that issue, alone.

Based on the foregoing, the Initial Decision is hereby ADOPTED in part and MODIFIED in part, the Agency's action is REVERSED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

Natasha Johnson

Assistant Commissioner

OCT 11 2019

