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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 12622-19 L.H.

AGENCY DKT. NO. C157214003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that she had failed to comply with her EA service plan ("SP") by failing to timely reapply for EA benefits or attend EA benefits appointments, thereby causing her own emergency; and that she had exhausted her 12-month lifetime limit of EA benefits, and did not qualify for an extension of EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On September 18, 2019, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 18, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination.

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 ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, MODIFY the Agency's determination, and REMAND the matter to the Agency to review the EA benefits issues, based on the discussion below.

EA benefits shall not be provided for a period of six months when "the adult applicant's or recipient's behavior directly caused the eviction," without good cause. See N.J.A.C. 10:90-6.1(c)(3)(vi).

Based on an independent review of the record, I make the following findings. Petitioner had received at least 12 months of EA benefits as of January 2019, and as such, she had exhausted her lifetime limit of EA benefits. See Initial Decision at 3; see also R-1 at Exhibit 17, and N.J.A.C. 10:90-6.4(a). In order to receive additional EA benefits, Petitioner would be required to apply for an extension of EA benefits. To that end, the record reflects that the Agency had scheduled appointments with Petitioner on March 6, March 20, March 31, March 27, May 13, and July 12, to address an extension of her EA benefits. See Initial Decision at 3; see also R-1 at Exhibit 16. Petitioner admitted that she failed to attend any of those scheduled appointments, and provided no good cause reason for such failure. See Initial Decision at 3. The record also reflects that it was not until June 19, 2019, that Petitioner applied for an extension of



EA benefits. Ibid.; see also R-1 at Exhibit 7. I hereby take official notice of the fact that Petitioner had a prior hearing scheduled for August 19, 2019, OAL Docket Number HPW 11113-19, regarding a denial of that June 2019, application for an extension of EA benefits, and that Petitioner executed a withdrawal of that appeal on August 19, 2019. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). Of note, Petitioner also executed an Affordable Housing Plan on June 19, 2019. See R-1 at Exhibit 7. On August 29, 2019, Petitioner again applied for an extension of EA benefits, and executed another Affordable Housing Plan and an SP. See R-1 at Exhibits 4, 5, 6. At that time, Petitioner was three months behind in her rent and was facing eviction. See Initial Decision at 3; see also R-1 at Exhibits 11 through 15. By notice dated September 11, 2019, effective August 29, 2019, Petitioner was again denied an extension of EA benefits on the bases that she had failed to comply with her SP by failing to attend scheduled EA benefits appointments, and that she did not qualify for an extension of EA benefits. See Initial Decision at 3; see also R-1 at Exhibits 3, 6, 7, and N.J.A.C. 10:90-6.4(b)(1), (2), -6.6(a). This appeal followed.

Although I find that Petitioner may have been eligible for an extension of EA benefits by virtue of her current 12-month MED-1 form, based on Petitioner's admissions that she missed several appointments to discuss an extension of her EA benefits, I nonetheless find that she has caused her own homelessness by failing to follow up on, or follow through with, the EA benefits extension process in a timely manner. See R-1 at Exhibits 6, 7, 9, 16. Accordingly, I find that Petitioner is ineligible for EA benefits. See Initial Decision at 3-4; see also R-1 at Exhibit 3, and N.J.A.C. 10:90-6.1(c)(3)(vi). The Initial Decision, as well as the Agency's determination, are modified to reflect the above findings.

By way of comment, because I find that Petitioner has caused her own homelessness, she is subject to a six-month period of ineligibility for EA benefits. See N.J.A.C. 10:90-6.1(c)(3). However, as the record indicates that Petitioner has mental health issues which may have prevented her from compliance with EA benefits eligibility requirements, I hereby direct the Agency to refer Petitioner for a Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") assessment. See R-1 at Exhibits 8, 9 and N.J.A.C. 10:90-6.3(g). If additional barriers are identified that may have prevented Petitioner's EA compliance, then no six-month EA ineligibility penalty shall not be imposed, and Petitioner may reapply for EA benefits. Ibid. Further Petitioner shall be required to follow through with services to address those barriers for continued EA benefits eligibility. Such services shall be identified as mandatory activities in an SP. Ibid.; see also N.J.A.C. 10:90-6.6(a)(1)(iii)(7). Finally, if no additional barriers are identified by the SAI/BHI assessment, then a six-month EA ineligibility penalty shall be imposed effective August 29, 2019, the effective date of the Agency's denial, through February 28, 2020. See R-1 at Exhibit 3; see also N.J.A.C. 10:90-6.1(c)(3).

By way of further comment, the record indicates that at the time of Petitioner's August 29, 2019, application for an extension of EA benefits, she had provided the Agency with a 12-month MED-1 form, and as such I find that she may be eligible for an extension of EA benefits pursuant to 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 R-1 at Exhibit 9.

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

Officially approved final version.

SEP 30 2019

Natasha Johnson
Assistant Commissioner

