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*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 13500-19 R.C.

AGENCY DKT. NO. C096089008 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner caused his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 27, 2019, the Honorable Catherine A. Tuohy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 30, 2019, the ALJ issued an Initial Decision, reversing 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, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Here, the record reflects that Petitioner had lost his subsidized housing because he failed to timely return his recertification package back to HUD. See Initial Decision at 2; see also Exhibits R-1 at 4-5, R-2. Consequently, the Agency denied Petitioner EA benefits on the basis that he had caused his own homelessness. See Initial Decision at 2; see also Exhibit R-1 at 11-12, and N.J.A.C. 10:90-6.1(c) (3). Petitioner testified that he had provided documents to HUD, which it rejected, and had tried to file an appeal, but was unsuccessful due to his untreated mental health issues. See Initial Decision at 2-3; see also Exhibit R-2. The record also reflects that the Agency was aware of Petitioner's mental health issues, as he had been referred to, and was participating in, the Behavioral Health Initiative in order to address those issues. See Initial Decision at 3; see also Exhibit R-3. Petitioner acknowledged that he suffers from a mental disability, that his failure to take his medication probably caused his current situation, and that needs treatment. See Initial Decision at 3. Petitioner has also applied for Supplemental Security Income benefits due to said disability, and has legal counsel assisting him. Ibid. Based on Petitioner's credible and honest testimony, and the documentary evidence presented, the ALJ found that Petitioner lacked the capacity to timely follow through with his HUD recertification due to mental health issues, and therefore, had not caused his own homelessness. See Initial Decision at 3-4; see also Exhibits



R-2, R-3. Accordingly, the ALJ concluded that the Agency's denial of EA benefits to Petitioner, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 4-5; see also R-1 at 11-12, and N.J.A.C. 10:90-6.1(c)(1)(iii).

I agree with the ALJ's conclusion that the Agency's denial of EA benefits to Petitioner, on the basis that he caused his own homelessness, was improper. See Initial Decision at 4-5; see also R-1 at 11-12, and N.J.A.C. 10:90-6.1(c)(1)(iii). However, the record reflects that Petitioner has exhausted his lifetime limit of EA benefits, and had 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 Initial Decision at 2; see also Exhibit R-1 at 10, 16-18, and N.J.A.C. 10:90-6.4(a), (b), (c). In order for Petitioner to receive EA benefits, he must first be found eligible for an extension of EA benefits pursuant to S866, and it is unclear from the record whether or not Petitioner meets said eligibility criteria. Specifically, the MED-1 form contained in the record is outdated, and there is no evidence of a WFNJ-135A form indicating that Petitioner is chronically unemployable. Therefore, I am remanding the matter to the Agency to reevaluate Petitioner's eligibility for EA benefits pursuant to S866, on an expedited basis. The Initial Decision is modified to reflect this finding.

By way of comment, should Petitioner be denied EA benefits pursuant to S866, Petitioner may request a fair hearing on that denial.

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

Officially approved final version.

OCT - 4 2019

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Natasha Johnson  
Assistant Commissioner

