



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Director

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

FINAL DECISION

OAL DKT. NO. HPW 17822-18 A.S.

AGENCY DKT. NO. C253692009 (HUDSON COUNTY DEPT OF FAM 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 she caused her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 18, 2018, the Honorable Susana E. Guerrero, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On December 19, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the Agency determined that Petitioner caused her own homelessness, and denied her EA benefits, based on a conversation a Social Worker Supervisor had with Petitioner's landlord, wherein the landlord allegedly stated that Petitioner was being evicted due to a history of nonpayment of rent and multiple tenant-landlord complaints going back to January 2017. See Initial Decision at 3; see also Exhibit R-1. In that same conversation, Petitioner's landlord indicated that he did not want Petitioner to remain in the apartment and would move forward with the eviction. See Initial Decision at 3-4. Petitioner could not provide any evidence that her landlord would allow her family to stay if the back rent was paid. *Ibid.* Neither the Social Worker Supervisor, nor the landlord, appeared at the hearing. *Id.* at 4. Petitioner did not dispute that she and her husband had failed to make timely rent payments in the past, but that such nonpayment was due to the loss of her husband's employment. *Id.* at 2-3.

The ALJ found that the statements made by Petitioner's landlord to the Agency's Social Worker Supervisor are hearsay statements unsubstantiated by any legally competent evidence, and as such, those statements do not support the Agency's claim that Petitioner caused her own homelessness. *Id.* at 4-5; see also N.J.A.C. 1:1-15.5(b). Accordingly, the ALJ concluded that the Agency had failed to demonstrate that Petitioner had caused her own homelessness, and therefore, the Agency's denial of EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 5; see also Exhibit R-1, and N.J.A.C. 1:1-15.5. Further, the ALJ concluded that the Agency is to determine the appropriate form of EA benefits necessary to address Petitioner's emergency. See Initial Decision at 5; see also N.J.A.C. 10:90-6.3(a)(1). I agree.



Exceptions to the Initial Decision were filed by the Agency on December 24, 2018.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

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. Moreover, I note that it is the ALJ who determines, prior to a hearing, if good cause exists for allowing witnesses to testify by telephone. See N.J.A.C. 1:1-15.8(e)(1)–(5) (outlining considerations to be used in determining the existence of good cause, including, consent by all parties for such testimony; if credibility is an issue; significance of the testimony; the reason for the request to take testimony by telephone; and any other relevant factor).

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

DEC 26 2018

Natasha Johnson

Director

