



State of New Jersey

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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 02496-18 T.J.

AGENCY DKT. NO. C304733007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, and imposed a six-month period of ineligibility of EA benefits, contending that she caused her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 23, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On that same day, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on February 26, 2018.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby REJECT the ALJ's Initial Decision, AFFIRM the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

EA benefits shall not be provided for a period of six months when an applicant "has caused his or her own homelessness, without good cause," including the applicant's "eviction from public and/or subsidized housing for nonpayment of rent," and when "the adult applicant's or recipient's behavior directly caused the eviction." See N.J.A.C. 10:90-6.1(c)(3)(ii), (vi).

Here, the record reflects that Petitioner was notified in May of 2017, that she would be evicted from her Section 8 housing due to a lease violation. See Exhibit R-3. Six months after this notification, Petitioner first applied for EA benefits, and was denied on November 9, 2017. See Exhibit R-3. At that time, the Agency found that Petitioner had failed to seek alternate affordable housing since being notified of her eviction in May, and that her eviction from subsidized housing was caused by her own behavior, precluding her from EA benefits. See Exhibit R-3; see also N.J.A.C. 10:90-6.1(c)(3)(vi). The Agency provided Petitioner with a list of resources and advised her to satisfy a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") sanction. See Exhibit R-3. Thereafter, Petitioner continued to live at her Section 8 residence until January 9, 2018, when she was evicted. See Initial Decision at 3; see also Agency Exceptions at 1. At that point, Petitioner reapplied for EA benefits and was again denied on January 10, 2018. See Initial Decision at 3; see also Exhibit R-1. The Agency denied Petitioner EA benefits this second time, and imposed a six-month EA benefits ineligibility penalty, effective from the first denial in November, finding that Petitioner was evicted for non-payment and due to her own behavior, and because Petitioner had been on notice since May of 2017 that she would be evicted, and had not submitted proof that she had attempted to secure alternate housing. See Exhibit R-1; see also Agency Exceptions at 2, and N.J.A.C. 10:90-6.1(c)(3)(ii), (vi).



The ALJ concluded that the Agency's denial of EA benefits to Petitioner was "flawed" and "unspecific," and reversed the denial and imposition of the six-month EA ineligibility penalty. See Initial Decision at 4. The ALJ referenced testimony that Petitioner currently resides with her sister, but that because Petitioner has an open case with the Division of Child Protection and Permanency ("DCP&P), Petitioner cannot continue to stay there, as her sister is acting as a foster parent for Petitioner's eldest child. See Initial Decision at 3. The ALJ noted that Petitioner's eviction was due to noise violations, and that Petitioner believed the landlord wanted to rent to another family. *Ibid.* Although the Agency states in its Exceptions that they had not received documentation of Petitioner's housing searches, the ALJ found that Petitioner had completed a number of housing searches to establish her eligibility for EA benefits. See Initial Decision at 4; see also Exhibit P-2, and Agency Exceptions at 2. Finally, the ALJ concluded that Petitioner's circumstances were beyond her control, and therefore, she did not cause her own homelessness. See Initial Decision at 4. I respectfully disagree.

It is clear from the record that Petitioner resided in Section 8 housing; that Petitioner had been noticed of her forthcoming eviction in May 2017 and had failed to provide the Agency with proof of her efforts to secure affordable housing in preparation for her eviction; that Petitioner's behavior was the cause of the eviction; that Petitioner did not pay her rent; and that Petitioner remained in the apartment until January of 2018. Therefore, pursuant to N.J.A.C. 10:90-6.1(c)(3)(ii) and (vi), I find that the facts support the Agency's determination that Petitioner caused her own homelessness, is ineligible for EA benefits, and subject to a six-month EA ineligibility penalty.

However, because it appears from the record that Petitioner now has an open case with DCP&P, she may be eligible for EA benefits even though she has been found to have caused her own homelessness. See Initial Decision at 3-4; see also N.J.A.C. 10:90-6.1(c)(6) (stating that "[i]n consultation with [DCP&P], EA benefits shall be provided to a [DCP&P] family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements," inclusive of all EA time limits), and DFDI Instruction ("DFDI") 05-12-03 at 2. In order for Petitioner to be eligible for EA benefits, DCP&P must agree to consult with the Agency and coordinate a DCP&P plan, along with the Agency's service plan and Individual Responsibility Plan. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1(c)(6)(i), and DFDI 05-12-03 at 2, 5. Based on the foregoing, I am remanding the matter to the Agency and directing it to contact DCP&P in this regard.

Further, given the unique circumstances presented in this case, I direct that Petitioner is to be provided with immediate need assistance, pending the Agency's consultation with DCP&P, and DCP&P's commitment to coordinate its plan with the aforementioned Agency plans. If, however, DCP&P does not agree to work with the Agency in accordance with the requirements set forth in the DFDI, Petitioner's EA benefits will be terminated and a six-month period of ineligibility for EA benefits will be imposed. See N.J.A.C. 10:90-6.6(a), and DFDI 05-12-03. A copy of the Initial and Final Decisions in this matter shall be forwarded to DCP&P.

By way of comment, because Petitioner will be receiving immediate need assistance pending the outcome of the Agency's consultation with DCP&P, her six-month EA ineligibility penalty will temporarily be suspended, but will begin to run again as of the date of the issuance of DCP&P's refusal to work with the Agency in accordance with DFDI 05-12-03, should such instance occur.

By way of further comment, the transmittal in this matter reflects an additional transmitted contested issue pertaining to a sanction of Petitioner's Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. This issue was not addressed in the Initial Decision. Therefore, if Petitioner continues to contest the sanctioning of her WFNJ/TANF benefits, Petitioner may request a fair hearing on that issue alone.

Accordingly, the Initial Decision in this matter is hereby REJECTED, the Agency's determination is AFFIRMED, and the matter is REMANDED to the Agency based on the discussion above.

Officially approved final version.

MAR - 9 2018

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Natasha Johnson

Director

