



**State of New Jersey**

**DEPARTMENT OF HUMAN SERVICES**

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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

FINAL DECISION

OAL DKT. NO. HPW 9620-15 C.D.

AGENCY DKT. NO. V583887 (CAPE MAY COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits under the Housing Assistance Program ("HAP") pilot. The Agency terminated Petitioner's EA benefits under HAP because he failed to locate permanent housing within three-months and thus became ineligible for continued benefits under HAP. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 7, 2015, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held an emergent plenary hearing, took testimony, and admitted documents. On July 7, 2015, the ALJ issued an Emergent Initial Decision, which reversed the Agency's action.

Exceptions to the Initial Decision were received from counsel on behalf of Respondent and counsel on behalf of Petitioner on July 9, 2015.

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, I hereby ADOPT and MODIFY the ALJ's Initial Decision and REVERSE the Agency's determination.

The regulations governing HAP, in pertinent part, state that "If a [recipient is] residing in temporary housing, the [recipient] shall locate permanent housing within three months for continued eligibility unless the recipient has good cause preventing him or her from obtaining permanent housing within the specified time frame" See N.J.A.C. 10:90-6.10(a)1.

The record reflects that Petitioner applied for benefits under HAP on March 6, 2015. See Exhibit R-1 at 8. The Agency approved his HAP request on March 13, 2015. See Exhibit R-1 at 14. Petitioner had, previous to his request for EA under HAP, exhausted more months of EA than the lifetime limit permitted under the regulations, as well as all EA extensions therein permitted. See Initial Decision at 2; see also N.J.S.A. 10:90-6.4 (defining the time limitations for EA benefits in terms of a recipient's 12-month cumulative lifetime benefit limitation and any applicable extensions to the lifetime benefit limitation for which one may qualify.) Therefore Petitioner, at the time of the Agency's approval of his request for EA under HAP, used eight-months of EA benefits under HAP. See Initial Decision at 2.

The Agency terminated Petitioner's benefits under HAP, effective July 1, 2015, because he had not secured permanent housing within the three-month time period delineated in the regulations. See Initial Decision at 2; see N.J.A.C. 10:90-6.10(a)1. Petitioner credibly testified, as found by the ALJ, as to the efforts that he had made to secure permanent housing during the months prior to the Agency terminating him from further receipt of HAP benefits. See Initial Decision at 3. Petitioner, in support of his testimony, presented documents that corroborated his efforts to locate permanent housing. *Ibid.*; see Exhibit P-1 at 2, 6-18.

The ALJ noted that that during Petitioner's testimony he observed that Petitioner exhibited "slowness in his thought process." See Initial Decision at 3. The ALJ further noted that due to the emergent nature of the proceedings, he did not have time to adjourn the hearing in order that documentation showing "the precise nature of [Petitioner's] disability" could be produced; as Petitioner receives Supplemental Security Income related to his disability. *Id.* at 4. The ALJ thereby concluded Petitioner had good cause to have failed to secure permanent housing within the three-month period because of his disability of limited-mental acuity and ordered that the Agency's action in terminating Petitioner's HAP benefits be reversed. *Id.* at 5.

I agree with the ALJ that Petitioner had good cause for his failure to locate permanent housing within the three-month time period. However, I respectfully disagree with the ALJ, as more fully discussed below, that such good cause flowed from Petitioner's limited-mental acuity, as there is nothing in the record that provides any measurement of the degree of Petitioner's intellectual functioning.

In the matter, the ALJ properly noted that he had concerns about the mental functioning of Petitioner because the Agency's approval of Petitioner's request for HAP was related to his history of mental and/or physical limitations, as well as the ALJ's observations of Petitioner's demeanor during his testimony. See Initial Decision at 2-3. Notwithstanding the ALJ's concerns, and as stated by him, there are no documents in the record that show the degree or exact nature of Petitioner's disability. See Initial Decision at 3-4. Although the ALJ found in observing Petitioner

that his testimony was "credible and believable" and such credibility finding by the ALJ is not to be disturbed, with limited exception, pursuant to N.J.A.C. 1:1-18.6(c), the ALJ's observation alone of Petitioner does not provide a sufficient basis for the ALJ's finding that Petitioner had good cause for his failure to find permanent housing within three-months on the basis of Petitioner's limited-mental acuity.

I hereby find that the record shows that Petitioner exercised due-diligence in his efforts to secure permanent housing and through no fault of his own was unable to do so within the three-months stated in the regulations. I further find that Petitioner's diligent efforts provide him with good cause for his failure to secure permanent housing within said time. Therefore it was inappropriate for the Agency to terminate Petitioner's benefits under HAP.

I hereby MODIFY the ALJ's Initial Decision to the extent that I find that Petitioner had good cause for his failure to secure permanent housing on the basis that he exercised due diligence in attempting to secure such housing within the regulatory time frame and that good cause, contrary to the ALJ's finding, was not shown that such failure was the result of Petitioner's limited-mental acuity.

By way of comment, I have read Respondent and Petitioner's exceptions, and I find that the arguments made therein do not alter my decision in the matter.

Accordingly, the Initial Decision is ADOPTED as MODIFIED and the Agency's action is REVERSED.

**JUL 15 2015**

*Signed Copy on File*  
at DFD, BARA

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Natasha Johnson  
Director