



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
Director
Tel. (609) 588-2400

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 9407-15 C.G.

AGENCY DKT. NO. C086393 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of her Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, due to ineligibility caused by an increase in Petitioner's income, as well as the denial of her application for Emergency Assistance ("EA") benefits and the imposition of a six-month EA ineligibility penalty, because she caused her own homelessness and failed to comply with her service plan. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law for a hearing. On August 4, 2015, the Honorable Thomas R. Betancourt, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 5, 2015, the ALJ issued his Initial Decision affirming in part, and reversing in part, the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on August 6, 2015.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I ADOPT in part, and REJECT in part, the Initial Decision, and AFFIRM the Agency's determination.

EA is a supportive service available to Work First New Jersey ("WFNJ") and Supplemental Security Income ("SSI") recipients when the assistance unit "is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing." See N.J.A.C. 10:90-6.1(c). The assistance unit shall be ineligible for EA

for a six-month period when the adult applicant caused their own homelessness without good cause. See N.J.A.C. 10:90-6.2(c)(3).

Here, the assistance unit consists of Petitioner and her three young children. See Initial Decision at 2. The family's income includes monthly child support of \$1,049.00, Supplemental Security Income ("SSI") of \$764.25, and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits, of \$163.00. Ibid. The assistance unit had also been receiving monthly WFNJ/TANF benefits of \$424.00, but those benefits were terminated in June 2015, because the family's income now exceeds the maximum allowable level to receive same. Ibid.

The record reflects that Petitioner had previously applied for, and was granted, EA in the form of shelter placement. See Initial Decision at 3. However, on June 3, 2015, Petitioner and her three children were removed from the shelter because of an incident involving the child of another shelter resident. Ibid.; see also Exhibit R-1. At the hearing, the ALJ determined that a letter from the shelter supervisor, stating that Petitioner was removed from the shelter because she twisted the child's arm, was hearsay, and he refused to consider same. See Initial Decision at 3. Instead, the ALJ believed Petitioner when she testified that she did not twist the child's arm, but merely held the arm of the child to stop her from splashing water on Petitioner. Ibid. Specifically, the ALJ opined that Petitioner's testimony was "forthright, credible and compelling," and was "also unrebutted." Ibid. On that basis, the ALJ concluded that Petitioner did not cause her own homelessness and, therefore, that removal of Petitioner and her children from the shelter was unwarranted. See Initial Decision at 4.

Nevertheless, the record reveals that Petitioner's monthly income is sufficient to pay housing expenses. See Initial Decision at 2. For that reason, I disagree with, and hereby reject, the ALJ's conclusion that Petitioner is entitled to continued EA. See Initial Decision at 5. Rather, because Petitioner has adequate financial resources to pay for housing, I find that Petitioner is ineligible for EA on that basis, and find further that the Agency's denial of Petitioner's request for same was appropriate. However, I agree with, and hereby adopt, the ALJ's conclusion that the Agency's termination of Petitioner's WFNJ/TANF benefits was appropriate due to an increase in Petitioner's income. Ibid.

By way of comment, I note that the Agency's Exceptions indicate that the Agency representative offered to contact the shelter manager to provide corroborating testimony, but the ALJ barred such testimony. See Exceptions. Pursuant to N.J.A.C. 1:1-15.8(e)(2), when the credibility of a witness is an issue, good cause exists for permitting a witness to testify by telephone at an administrative hearing. As Petitioner's credibility was, indeed, at issue here, and was relevant to the determination of the appropriateness of a six-month EA penalty, I find that telephone testimony would have been proper in this case to rebut Petitioner's direct testimony.

Accordingly, the ALJ's Initial Decision is hereby ADOPTED in part, and is hereby REJECTED in part, and the Agency's action is hereby AFFIRMED.

Signed Copy on File
at DFD, BARA

AUG 21 2015

Natasha Johnson
Director