



State of New Jersey

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 16926-14 J.L.

AGENCY DKT. NO. C014174 (WARREN CO. DIV TEMP ASST & SOC. SVCS)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") under the Housing Assistance Program ("HAP") pilot. The Agency terminated Petitioner's EA under HAP because she was determined to be ineligible under the HAP criteria. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On September 1, 2015, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 3, 2015, the ALJ issued her Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on September 17, 2015, and a reply to the Agency's Exceptions was filed by Legal Services of Northwest Jersey on behalf of Petitioner on September 18, 2015.

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

EA is a supportive service designed to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA recipients are required to develop a service plan with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the

activities and requirements identified in the service plan, without good cause, shall result in termination of EA and the imposition of a six-month period of EA ineligibility. *Ibid.*

EA is limited to 12 cumulative months over the lifetime of a case. See N.J.A.C. 10:90-6.4(a). However, a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient may qualify for two additional six-month extreme hardship extensions. See N.J.A.C. 10:90-6.4(d) and -6.4(d)(2). Previously, if a WFNJ/TANF recipient had exhausted their 12-month lifetime EA limit, plus their two six-month extreme hardship extensions, they may have been eligible to receive additional EA under the 24-month Housing Assistance Program ("HAP") pilot, which expired on July 2, 2015. See N.J.A.C. 10:90-6.10(a)(1). HAP was a pilot program that expanded on the extension of EA benefits to WFNJ recipients determined to be disabled by virtue of a Med-1 form, and to Supplemental Security Income ("SSI") recipients. See N.J.A.C. 10:90-6.10(a). However, an EA recipient is ineligible for HAP when they have previously lost Section 8 housing due to non-compliance with Section 8 rules and regulations. See N.J.A.C. 10:90-6.10(b)(1).

Here, Petitioner was granted EA/TRA in October 2013, under HAP, and received same until the Agency terminated her benefits effective December 31, 2014, for failing to comply with her EA service plan, and because the Agency determined that Petitioner was ineligible for HAP at the time of her initial EA/TRA grant. See Initial Decision at 2; see also Exhibit R-1. Specifically, under her service plan, Petitioner was required to make monthly payments to the Phillipsburg Housing Authority ("PHA") towards an outstanding balance due of \$1,073.32, which she ceased to do in violation of her EA service plan. See Initial Decision at 3; see also R-1 at 2. Additionally, in 1993, Petitioner was evicted from her subsidized PHA apartment because, according to Petitioner's testimony, she abandoned the apartment "without giving notice to PHA and moved in with her then-boyfriend." See Initial Decision at 2; see also Exhibit R-1 at 2 and 8. Because abandoning her apartment without notifying PHA constitutes a violation of Section 8 rules and regulations, PHA filed an eviction action against Petitioner on March 9, 1993. See Exhibit R-1 at 8. PHA obtained a Warrant of Removal from the court on April 2, 1993. *Ibid.* Accordingly, pursuant to N.J.A.C. 10:90-6.10(b)(1), Petitioner was ineligible for HAP when she was initially granted same in October 2013.

In her Initial Decision, the ALJ opined that Petitioner was not evicted for violating PHA's rules and regulations but, instead, she "left that housing by choice in 1993 due to neighbor issues and conflicts." See Initial Decision at 4. Moreover, the ALJ believes that the balance of \$1,073.32 owed by Petitioner to PHA does not represent unpaid rent, but probably consists of charges assessed against Petitioner by PHA for Petitioner's failure to remove improvements that she claims to have made to her apartment. See Initial Decision at 2. Yet, the ALJ did acknowledge that Petitioner abandoned her apartment "without giving proper notice to PHA" because

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of problems with her neighbors. See Initial Decision at 2. The ALJ also acknowledged that an eviction complaint was filed against Petitioner by the PHA, and that a Warrant of Removal was issued. See Initial Decision at 3; see also Exhibit R-1 at 8.

Upon an independent evaluation of the record, I disagree with, and hereby reject, the ALJ's opinions set forth above. The record clearly reflects that Petitioner was evicted from Section 8 housing through an eviction complaint filed against her by PHA, resulting in a Warrant of Removal. See Exhibit R-1 at 8. Moreover, the Petitioner herself admitted in her fair hearing request form that, "I am in the process of paying back housing from when I was evicted 20 years ago." See Exhibit R-1 at 2. Therefore, because Petitioner was evicted from Section 8 housing prior to her application for EA/TRA under HAP, she was never eligible for HAP under those circumstances. Indeed, the ALJ pointed out that Petitioner "would have been deemed eligible for a HAP extension but for the 1993 PHA obligation." See Initial Decision at 3.

The record in this case confirms that Petitioner was evicted from Section 8 housing in 1993 and, therefore, she was ineligible to receive HAP when she applied for same in October 2013. On that basis, I hereby reject the ALJ's Initial Decision and find that the Agency's action was proper in terminating Petitioner's EA/TRA and must be affirmed.

By way of comment, I disagree with the ALJ's opinion that the case of *M.P. v. Warren County Div. Temp. Ass't & Soc Svcs.*, OAL Docket No. HPW 16487-14, Final Decision (May 19, 2015), is "slightly different" but still conforms to the policies and interpretations set forth by Her Honor in the instant case. In that case, M.P. did not lose her Section 8 housing by violating Section 8 rules and regulations, as the Petitioner herein has done. Instead, M.P. relinquished her Section 8 housing because she became self-sufficient, and she wanted someone else who was in need to get her spot. *Id.* at 2. Therefore, the M.P. case is factually distinguishable from the within matter and, therefore, is not persuasive.

Accordingly, the Initial Decision is REJECTED and the Agency action is AFFIRMED.

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Signed Copy on File

at DFD, BARA

Natasha Johnson
Director