



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 17256-15 M.G.

AGENCY DKT. NO. C104057 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of shelter placement because she had the capacity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 30, 2015, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 2, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on November 4, 2015. A reply to the Exceptions was filed by South Jersey Legal Services, Inc. on behalf of Petitioner on November 4, 2015.

As the Director of the Division of Family Development ("DFD"), 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 hereby ADOPT the Initial Decision and REVERSE the Agency 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 lack of a realistic capacity to plan is defined as “insufficient time to secure housing between receipt of notice of imminent loss of housing and actual eviction...or loss of prior permanent housing.” See N.J.A.C. 10:90-6.1(c)(1)(i).

The record reveals that Petitioner is a single mother with a one-year old child. See Initial Decision at 2; see also Exhibit R-1 at 4-11. Petitioner is a part-time college student who lived with her mother until May 2015, at which time Petitioner and her daughter moved to Pennsylvania to live with Petitioner’s boyfriend. See Initial Decision at 2; see also Exhibit R-1 at 15. One month later, Petitioner discovered that her boyfriend had a drug addiction. See Initial Decision at 2. Not wanting her daughter to be subjected to that situation, Petitioner and her daughter moved in temporarily with one of her two sisters, H.E. Ibid. Petitioner and her daughter stayed with H.E. for one month, until the end of July, when H.E. asked them to leave because the living arrangement was too stressful. See Initial Decision at 2; see also Exhibit R-1 at 16.

Petitioner then moved in temporarily with her other sister, M.A., who also asked them to leave, which is documented by a letter from M.A. dated October 5, 2015. See Initial Decision at 2; see also Exhibit R-1 at 17. Since October 8, 2015, Petitioner and her daughter have been staying at an emergency homeless shelter for adult women with young children. See Initial Decision at 3; see also Exhibit P-1. However, the shelter has stated that Petitioner and her daughter must vacate by November 8, 2015. Ibid.

On October 8, 2015, Petitioner applied to the Agency for EA in the form of shelter placement. See Initial Decision at 2; see also Exhibit R-1 at 3-11. The Agency denied Petitioner’s application because it contends that Petitioner had sufficient time and a capacity to plan for substitute housing prior to leaving her mother’s home in 2015. See Initial Decision at 2; see also Exhibit R-1 at 3. However, the ALJ found, and I agree, that Petitioner did not have either the time or a realistic capacity to plan for substitute housing under the circumstances. See Initial Decision at 4. Petitioner was not aware of her boyfriend’s drug addiction, nor was she aware that her two sisters would only allow her to remain with them for a short time. Based upon the foregoing, the ALJ concluded, and I concur, that the Agency’s denial of EA to Petitioner was improper and must be reversed. Therefore, I hereby direct the Agency to determine the most appropriate form of EA benefits for Petitioner that are “required to address the need and authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided.” See N.J.A.C. 10:90-6.3(a)(1).

By way of comment, I have reviewed the Exceptions submitted by the Agency, and I find that the arguments made therein do not alter my decision in this matter.

By way of further comment, I note for the benefit of Petitioner's counsel that replies to Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2.

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

Signed Copy on File
at DFD, BARA

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Natasha Johnson
Director