



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625
(609) 588-2400

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
Director

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 3624-15 M.G.

AGENCY DKT. NO. GA39218 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits because he is not in a state of homelessness or imminent homelessness due to circumstances beyond his control for which he had no opportunity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 24, 2015, the Honorable Margaret M. Monaco, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 24, 2015, the ALJ issued an Initial Decision, which affirmed the Agency's action.

No exceptions to the Initial Decision were received.

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 REJECT the ALJ's Initial Decision and REVERSE the Agency's determination.

In order to maintain eligibility for receipt of Work First New Jersey ("WFNJ") benefits, the recipient must cooperate with, and participate in, the WFNJ work activity requirements. If a WFNJ recipient fails to comply with their work activities without good cause, the recipient is subject to a progression of sanctions on their WFNJ benefits, including a reduction in benefits, a suspension of benefits and ultimately, a termination of benefits. See N.J.A.C. 10:90-4.13; see also N.J.A.C. 10:90-2.2(e)(requiring imposition of sanction pursuant to N.J.A.C. 10:90-4.13 when WFNJ recipient fails to participate in work activities without good cause).

In pertinent part, N.J.A.C. 10:90-4.13(e) states, "If a cash assistance case is closed due to a sanction, and the recipient is receiving [EA] benefits, then the emergency assistance will continue through the one-month closure sanction, if eligible. . . . If the individual reapplies for cash assistance benefits, demonstrates compliance, and remains eligible for emergency assistance, the emergency assistance benefits shall be reinstated if the emergency still exists."

N.J.A.C. 10:90-6.3(a)(5) provides, in pertinent part, that payment shall be authorized up to any three calendar months of retroactive rental payments if it will prevent actual eviction or foreclosure. Payment for more than three calendar months of retroactive rental payments shall be made only under extraordinary circumstances subject to authorization by DFD. Ibid.

The record in this matter reveals that Petitioner received a sanction for non-compliance with his work activity effective September 1, 2014. See Fair Hearing packet at 27. N.J.A.C. 10:90-4.13(b) dictates that a sanction, when good cause for non-compliance has not been provided, will cause a WFNJ/General Assistance ("GA") recipient's cash benefits to be pro-rated for the first month, suspended the following month, and closed the month thereafter. Additionally, subsection (e) of that same regulation states that EA benefits shall only continue through the one-month closure. This is precisely what happened in Petitioner's case. See Fair Hearing packet at 22. Petitioner's cash benefits were pro-rated for September 2014, suspended in October and closed in November 2014. Ibid. Pursuant to subsection (e), Petitioner received EA benefits during September, October and November, but EA benefits ceased thereafter due to the closure of Petitioner's WFNJ case. Ibid.; see also N.J.A.C. 10:90-6.2 (stating that only WFNJ cash assistance recipients and Supplemental Security Income recipients are eligible for EA benefits).

On December 22, 2014, Petitioner came into compliance with his WFNJ work activity, his sanction was lifted, and his WFNJ/GA benefits were reinstated, effective December 1, 2014. See Fair Hearing packet at 22, 27. Thereafter, on January 5, 2015, Petitioner reapplied for EA benefits and was denied by the Agency because he, purportedly, caused his own homelessness by failing to comply with his prior WFNJ work activity, which caused his WFNJ/GA and EA benefits to be terminated, which in turn caused him to become behind in his rent, thereby facing eviction. At the time Petitioner applied for EA benefits, he had already received 10 months of the allowable 12-month lifetime limit for EA benefits. See Fair Hearing packet at 22-25; see also N.J.A.C. 10:90-6.4(a). Based on the foregoing facts, the ALJ found that the Agency properly denied Petitioner EA benefits, however, based on the provisions set out in N.J.A.C. 10:90-4.13(e), I must disagree.

Page 3

Specifically, it appears from the record that when Petitioner came into compliance with his WFNJ work activity and his WFNJ/GA benefits were reinstated, his emergency still existed. See Initial Decision at 2-3. Since Petitioner's emergency still existed at the time he applied for EA benefits on January 5, 2015, the Agency's denial of EA benefits was improper. See N.J.A.C. 10:90-4.13(e). Although, Petitioner is currently four months behind in his rent, the record indicates that as of December 1, 2014, Petitioner had received 10 months of the 12-month lifetime limit of EA benefits, leaving him only 2 months of additional EA benefits. Accordingly, I find that because Petitioner was improperly denied EA benefits in January 2015, the Agency is directed to provide Petitioner with 2 months of EA benefits. However, Petitioner is advised that the Agency shall determine the most appropriate form of emergency housing required to address the needs of an EA recipient, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1).

Accordingly, the Initial Decision is REJECTED and the Agency's action is REVERSED.

APR - 9 2015

Signed Copy on File

at DFD, BARA

Natasha Johnson
Director