



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 2482-15 N.P.

AGENCY DKT. NO. C190596 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") in the form of Temporary Rental Assistance ("TRA") benefits because she had sufficient income to pay her rent and caused her own homelessness. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law for a hearing. On February 26, 2015, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), held a hearing and took testimony. No documents were admitted into evidence. On February 27, 2015, the ALJ issued an Initial Decision, affirming the Agency's determination.

No exceptions to the Initial Decision were filed by either party.

As the Director of the Division of Family Development, Department of Human Services, I reviewed the record, and hereby ADOPT the ALJ's Initial Decision and AFFIRM the Agency determination.

The purpose of EA is 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. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in relevant part, that the individual must have an "actual or imminent eviction from prior housing, and 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." N.J.A.C. 10:90-6.1(c).

In relevant part, a lack of realistic capacity to plan exists where the assistance unit demonstrates that there was insufficient time to secure housing between receipt of notice of imminent loss of housing and actual eviction, foreclosure or loss of prior permanent housing; or when the assistance unit demonstrates functional incapacity, such as evidence of alcohol or drug abuse that would prevent them from planning for or securing substitute housing. N.J.A.C. 10:90-6.1(c)(i), (iii). Further, when a recipient causes his or her own homelessness, as in the case of Petitioner, the recipient is ineligible for EA for a period of six months. N.J.A.C. 10:90-6.1(c)(3).

In the present matter, the ALJ found that Petitioner had received \$8,327 from her 2014 Federal Income Tax return in February 2015 and was awaiting a New Jersey State Income Tax refund in the amount of \$1,420. See Initial Decision at 2. Further, Petitioner had received \$2,000 in workers compensation benefits in January 2015, and collects a \$456 WFNJ/TANF monthly cash benefit. Ibid. Petitioner, without providing the ALJ with any documentation, stated that she had obtained a loan from her brother for the purpose of having her and her three-minor children flown to the Dominican Republic to attend the funeral of a family member. Ibid. Petitioner further stated that she had sent him \$6,000 from her recently received Federal Income Tax refund to reimburse him for the loan. Ibid. While Petitioner did pay her landlord \$2,000 towards back rent, she had an outstanding balance due of \$3,491 and failed to pay it. See Initial Decision at 2. The landlord then initiated an eviction proceeding against Petitioner. Ibid. Petitioner signed a consent agreeing to pay the landlord the \$3,491 by March 11, 2015, or be locked out. See Initial Decision at 3. As the record makes clear, Petitioner did not pay the outstanding balance of back rent due.

The ALJ concluded that the Agency acted appropriately in denying Petitioner EA in the form of TRA because Petitioner chose to pay back her brother, instead of paying her back rent. I agree. Petitioner clearly had the realistic capacity to plan in advance so as to avert her emergency because she had sufficient, available funds to pay her back rent, and doing so, or not, was completely within her control. She chose not to pay her back rent. Petitioner is, therefore, ineligible for EA for a period of six months. See N.J.A.C. 10:90-6.1(c)(3).

By way of comment, the Agency shall refer Petitioner to any and all organizations that may be able to assist with her current needs.

Accordingly, the Initial Decision is ADOPTED and the Agency's action is AFFIRMED.

Signed Copy on File
at DFD, BARA

MAR 11 2015

Jeanette Page-Hawkins
Director