



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

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
Director

Tel. (609) 588-2000

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 2525-15 P.M.

AGENCY DKT. NO. GA269120 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits on the basis that he caused his own homelessness due to his incarceration. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 27, 2015, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 2, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I MODIFY the ALJ's Initial Decision and REVERSE the Agency's 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 the 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 pertinent 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." However, EA shall not be provided for a period of six months when an applicant "has caused his or her own homelessness, without good cause." N.J.A.C. 10:90-6.1(c)(3).

Pursuant to N.J.A.C. 10:90-9.1(b), an Agency must provide both adequate and timely

notice advising of a termination, denial or suspension of welfare benefits. Adequate notice is a written notice outlining the intended action and the reasons for the action. N.J.A.C. 10:90-9.1(a). Timely notice is defined as "a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action." N.J.A.C. 10:90-9.1(b)(1). When the Agency's decision adversely affects a benefits recipient, there cannot be a change to the recipient's benefits until 10 calendar days after the mailing date of the notice. N.J.A.C. 10:90-9.1(c).

However, pursuant to N.J.A.C. 10:90-9.1(d)(13), "Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of the action when: [t]he WFNJ/GA recipient is confined to jail for a period in excess of seven calendar days."

The record indicates that Petitioner was receiving EA benefits in the form of a motel placement until January 27, 2015, at which time he was incarcerated for a disorderly person offense. See Initial Decision at 2. The Agency became aware of Petitioner's incarceration on February 9, 2015, and mailed him a notice of termination of his EA benefits on that date, to his motel address, with a termination effective date of January 27, 2015. *Ibid.* Based on the notice provisions set out in N.J.A.C. 10:90-9.1(b)(1), the ALJ found that the Agency's notice was untimely, and therefore defective, because Petitioner did not receive the notice 10 days prior to termination, and it was sent to the wrong address. See *id.* at 2-3. While I agree with the ALJ's conclusion, his analysis is based on the notice provision set out in N.J.A.C. 10:90-9.1(b)(1), rather than the notice provision, applicable, when an applicant is incarcerated, as set out in N.J.A.C. 10:90-9.1(d)(13), above. Accordingly, I find, that pursuant to N.J.A.C. 10:90-9.1(d)(13), Petitioner did not get adequate notice, and therefore it was defective notice, because the Agency mailed out the notice on February 9, 2015, which was much later than the effective date of the action, January 27, 2015. Therefore, the Initial Decision is modified to reflect this analysis.

Thereafter, upon Petitioner's release from jail, he reapplied for EA benefits and was denied by the Agency, on February 18, 2015, on the basis that he caused his own homelessness by failing to address his prior warrants, resulting in his incarceration. *Id.* at 3. The ALJ also found this notice to be ineffective, and I concur. However, the substantive issue here is whether Petitioner caused his own homeless as a result of his incarceration, thereby making him ineligible for EA benefits for a period of six months.

The record indicates that Petitioner was arrested on January 27, 2015, for an eight-year-old warrant for failure to pay back fines. *Id.* at 3. Because he could not pay his fines, Petitioner was incarcerated until February 14, 2015. *Ibid.*; see also Exhibit R-1 at 11. Additionally, the ALJ found that Petitioner's incarceration was

unanticipated, and likened it to a client who is injured in a car accident and is hospitalized. Id. at 4. I agree. Accordingly, I find that Petitioner's homelessness was caused by circumstances beyond his control, and the Agency improperly terminated Petitioner's EA benefits. See N.J.A.C.10:90-6.1(c).

By way of comment, the record indicates that Petitioner has mental health issues, therefore, the Agency is to properly reassess and reevaluate Petitioner to determine an appropriate housing placement and refer Petitioner to appropriate services, taking into account Petitioner's mental health issues. See N.J.A.C. 10:90-6.1(c)(iii).

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

Signed Copy on File
at DFD, BARA

MAR 18 2015

Jeanette Page-Hawkins
Director