



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

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
Director
Tel. (609) 588-2400

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 11177-15 Q.R.

AGENCY DKT. NO. C255260 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination/denial of Emergency Assistance ("EA"). The Agency terminated/denied Petitioner EA upon the basis that she refused to be placed into a domestic violence ("DV") shelter outside the county for the health and safety of her family. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 25, 2015, the Honorable Thomas R. Betancourt, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 25, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby REJECT the Initial Decision and AFFIRM in part and MODIFY in part the Agency's 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 Agency shall determine the most appropriate form of emergency housing required to address an EA applicant's needs. See N.J.A.C. 10:90-6.3(a)(1).

In cases where past or present DV exists, the WFNJ Family Violence Option ("FVO") Initiative requires the Agency to refer EA applicants for a FVO risk assessment, which "includes a safety and service plan strategy consistent with the identified needs and safety concerns of the individual," as determined by the individual and by the Agency's risk assessor. See N.J.A.C. 10:90-20.1(b)(1)(i). Further, a service plan prepared for applicants seeking EA because of DV, or the risk thereof, must be coordinated with the recommendations contained in the FVO risk assessment. See N.J.A.C. 10:90-20.1(b)(1)(ii).

The record reflects that Petitioner is a single mother with two young children who receives monthly WFNJ/Temporary Assistance for Needy Families ("WFNJ/TANF") and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits. See Initial Decision at 2. On May 21, 2015, Petitioner visited the Agency stating that she wanted to move because of a recent DV incident. See Initial Decision at 2; see also Exhibits R-1 and R-6. Petitioner advised the Agency that she was in fear of living in her current apartment, which she was receiving EA/Temporary Rental Assistance ("EA/TRA") for, "because her child's father came to the house and broke down her door." See Exhibit R-6. Petitioner agreed to immediate placement into a DV shelter, and she began residing there the next day. See Exhibits R-2 and R-6.

As it was required to do, the Agency scheduled Petitioner for a FVO risk assessment, which was completed by telephone on June 4, 2015. See N.J.A.C. 10:90-20.1(b)(1)(i). The risk assessment report indicates that high safety issues exist due to current DV, and that Petitioner was offered shelter outside the county due to safety concerns. See Exhibit R-4.

Contrary to the foregoing facts of record, Petitioner testified at the fair hearing that her child's father, after his release from incarceration, telephoned Petitioner and was verbally abusive to her. See Initial Decision at 2; see also Exhibit R-6. Further, Petitioner testified that "there was no physical abuse presently, but there had been physical abuse in the past." See Initial Decision at 2. Finally, Petitioner denied any current incidents of domestic violence and, in fact, she testified that she returned to her apartment after leaving the DV shelter. See Initial Decision at 2-3; see also Exhibit R-6.

At the hearing, the ALJ found Petitioner's testimony credible regarding the nature of the DV incident that precipitated her EA application. See Initial Decision at 2. However, the ALJ's finding concerning Petitioner's credibility is not supported by sufficient, competent, and credible evidence in the record. See N.J.A.C. 1:18-6(c); see also Exhibit R-4. For that reason, I hereby reject the ALJ's credibility determination regarding Petitioner's testimony. *Ibid.*

Additionally, I reject the ALJ's finding that, because no competent evidence exists, other than the Agency's adverse action notice, to prove that Petitioner refused

placement into a DV shelter outside the county, the Agency's denial of EA/TRA to Petitioner was improper and should be reversed. See Initial Decision at 5-6; see also Exhibit R-1. Rather, I find that the FVO risk assessment report prepared on June 4, 2015, is controlling. See Exhibit R-4. Indeed, the DV risk assessment and written report were prepared solely as a result of Petitioner's assertion to the Agency on May 21, 2015, that she needed to move out of her apartment because of a current DV threat. See Exhibits R-1 and R-4. This fact, and the evidence documenting same, clearly refute Petitioner's testimony to the ALJ that there is no current DV threat to her or her family. See Initial Decision at 2; see also Exhibit R-6. Thus, because Petitioner's testimony is inconsistent with the facts of record and with the documentary evidence admitted at the hearing, I find that it is not credible. See Exhibits R-1 and R-4.

Notwithstanding the above, it is clear that EA/TRA is the preferred form of EA. Moreover, it is clear that, as per the FVO assessment, Petitioner cannot safely stay in an apartment located within the county where she suffered domestic violence. Thus, because Petitioner has received EA/TRA on her current apartment, she would likely be eligible for EA/TRA for a comparable apartment located outside the county, and I am modifying the Agency action accordingly. Therefore, even if the Agency needs to place Petitioner in a DV shelter temporarily, I am hereby instructing the Agency to contact the receiving county agency to facilitate locating a suitable out-of-county apartment for the Petitioner in order to ensure her safety. The Agency, the receiving county agency, and the Petitioner shall all work together to locate a suitable apartment and transfer the Petitioner's case accordingly.

Accordingly, the Initial Decision is hereby REJECTED and the Agency's action is hereby AFFIRMED in part and MODIFIED in part.

Signed Copy on File

at DFD, BARA

SEP 23 2015

Natasha Johnson
Director