



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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Chris Christie
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Kim Guadagno
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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 5798-15 S.F.

AGENCY DKT. NO. V601174 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits because she voluntarily left affordable housing without a plan for substitute housing, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 28, 2015, the Honorable Michael Antoniewicz, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On April 28, 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 ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

The purpose of EA for Supplemental Security Income ("SSI") recipients is to minimize the incidence of homelessness among the SSI recipient population. 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."

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 a mental or cognitive impairment that would prevent them from planning for or securing substitute housing. N.J.A.C. 10:90-6.1(c)(iii).

Here, the record shows, that at the time Petitioner voluntarily left her affordable housing, she was suffering side effects from a medication prescribed for her physical ailment. See Initial Decision at 2. Specifically, the record indicates that because of the side effects of Petitioner's medication, she could not remember to pay her rent, and she was not thinking clearly when she decided to leave her affordable, subsidized housing. *Ibid.*; see also Exhibit P-1 at 1-2. Thereafter, Petitioner applied to the Agency for EA benefits in the form of shelter placement, and was denied. See Exhibit P-1 at 2; see also Exhibit R-1.

The record clearly shows that Petitioner was experiencing some mental impairment, at the time she voluntarily left her affordable housing, and I concur with the ALJ's conclusion that, as a result of that impairment, Petitioner lacked the functional capacity to avoid the behaviors which lead to her becoming homeless. See Initial Decision at 3; see also Exhibit P-1. Accordingly, I find that Petitioner is eligible for EA benefits. Additionally, the Agency is to execute a service plan ("SP") that takes into account Petitioner's individual circumstances. The SP shall include, as appropriate, but is not limited to: selection of a housing arrangement which takes into consideration the recipient's circumstances, such as mental or physical problems, and Petitioner's participation in programs designed to address barriers that may prohibit her from maintaining permanent housing, such as the Behavioral Health Initiative. See N.J.A.C. 10:90-6.6(a)(1)(i). Also, the SP is to include instructions for Petitioner to continue to work with Legal Services to reinstate her subsidized housing through Housing Opportunities for Persons With Aids Program. See Exhibit P-1 at 2. However, if Petitioner fails to comply with the SP, without good cause, then the recipient's EA benefits must be terminated for a period of six months. See N.J.A.C. 10:90-6.6(a).

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

MAY 12 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director