



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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

REMAND DECISION

OAL DKT. NO. HPW 03920-18 D.V.

AGENCY DKT. NO. C212215002 (BERGEN COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits, and the sanctioning of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that she violated shelter rules, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 17, 2018, the Honorable Thomas R. Betancourt, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On that same date, the ALJ issued an Initial Decision, affirming the Agency's determination.

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 hereby REJECT the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

EA benefits 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).

Here, the ALJ found that Petitioner caused her own homelessness, without good cause, when she permitted her boyfriend into the shelter, knowing that her actions were in contravention of the shelter rules and regulations. See Initial Decision at 5; see also Exhibit R-1 at 6-9, 15, and 20. Moreover, the record reflects that Petitioner's boyfriend entered the shelter via the fire escape, which gave him access to several other shelter residents' rooms, and that Petitioner had been throwing her garbage out of her window, both of which are violations of the shelter's health and safety policies. See Initial Decision at 2-3; see also Exhibit R-1 at 6-9, 18, 20, 22, and N.J.A.C. 10:90-6.3(c)(5). Petitioner also testified that she understands that having her boyfriend in the shelter is a violation of the rules and regulations, and acknowledged that she had been throwing her garbage out of the window. See Initial Decision at 3-4. Based on the foregoing, the ALJ concluded that the Agency's termination of EA benefits to Petitioner was proper and must stand. Id. at 6; see also Exhibit R-1 at 10, and N.J.A.C. 10:90-6.1(c)(3). I agree. Additionally, because I agree with the ALJ's finding that Petitioner caused her own homeless, I find that Petitioner is subject to a six-month period of ineligibility for receipt of EA benefits. See N.J.A.C. 10:90-6.1(c)(3), -6.3(c)(5).

However, because it appears from the record that Petitioner has an open case with the Division of Child Protection & Permanency ("DCP&P"), she may be eligible for EA benefits even though she has been found to have caused her own homelessness. See Exhibit R-1 at 1; see also N.J.A.C. 10:90-6.1(c)(6) (stating that "[i]n consultation with [DCP&P], EA



benefits shall be provided to a [DCP&P] family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements," inclusive of all EA time limits). See DFDI Instruction ("DFDI") 05-12-03 at 2. In order for Petitioner to be eligible for EA benefits, DCP&P must agree to consult with the Agency and coordinate a DCP&P plan, along with the Agency's service plan and Individual Responsibility Plan. See N.J.A.C. 10:90-6.1(c)(6)(i); see also DFDI 05-12-03 at 2, 5.

Further, Petitioner is to be provided with continued assistance, pending the Agency's consultation with DCP&P, and DCP&P's commitment to coordinate its plan with the aforementioned Agency plans. If, however, DCP&P does not agree to work with the Agency in accordance with the requirements set forth in the DFDI, Petitioner's EA benefits will be terminated and a six-month period of ineligibility for EA benefits will be imposed. See N.J.A.C. 10:90-6.1(c)(3), -6.3(c)(5), and DFDI 05-12-03. A copy of the Initial and Final Decisions in this matter shall be forwarded to DCP&P.

By way of comment, because Petitioner will be receiving continued assistance pending the outcome of the Agency's consultation with DCP&P, her six-month EA ineligibility penalty will begin to run as of the date of the issuance of DCP&P's refusal to work with the Agency in accordance with DFDI 05-12-03, should such instance occur.

By way of further comment, the transmittal in this matter indicates an additional contested issue regarding a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") sanction, which was not addressed by the ALJ in the Initial Decision. Therefore, if Petitioner still has an issue concerning a WFNJ/TANF sanction, she may request another fair hearing on that issue alone.

Accordingly, the Initial Decision in this matter is hereby REJECTED, the Agency's determination is REVERSED, and the matter is REMANDED to the Agency based on the discussion above.

Officially approved final version. JUN 07 2018

Natasha Johnson
Director

