



State of New Jersey

PHILIP D. MURPHY  
Governor

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

CAROLE JOHNSON  
Commissioner

SHEILA Y. OLIVER  
Lt. Governor

TRENTON, NJ 08625-0716

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 07764-18 M.K.

AGENCY DKT. NO. S610366012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits contending that her homelessness is not the result of circumstances beyond her control for which she had no opportunity to adequately plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 22, 2018, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On July 6, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that in January 2018, Petitioner was evicted from her condominium, following a sheriff's sale for unpaid taxes. See Initial Decision at 4; see also Exhibits R-9, R-10. Since the eviction, Petitioner has been residing in a motel, and using the proceeds from her relative's estate for living expenses related to moving, storage, and her motel stay. See Initial Decision at 4; see also Exhibits R-5, R-7, R-8, and R-18. When the proceeds began to run out, on April 2, 2018, Petitioner applied for EA benefits. See Initial Decision at 4; see also Exhibit R-1. On April 18, 2018, the Agency denied Petitioner's application for EA benefits on the basis that she caused her own homelessness because she knew about the pending foreclosure and sheriff's sale for months before the eviction, and failed to plan to use her resources to avoid the eviction or find permanent alternative housing. See Initial Decision at 3; see also Exhibit R-16, and N.J.A.C. 10:90-6.1(c)(1)(ii). The ALJ found that Petitioner's MED-1 form indicates that Petitioner has been diagnosed with chronic alcohol abuse, as well as, mental health issues. See Initial Decision at 4; see also Exhibits R-11, R-13. Moreover, the ALJ found that these conditions are so severe that they left Petitioner unable to effectively manage her affairs to the point where she lost a residence she owned due to unpaid taxes. See Initial Decision at 5. Further, the ALJ determined that EA benefits may still be available for an applicant with a perceived lack of a realistic capacity to engage in advance planning, "where the [EA] applicant demonstrates functional incapacity, for example, evidence of alcohol or drug abuse, or a mental or cognitive impairment that would prevent them from planning for or securing substitute housing." *Ibid.*; see also N.J.A.C. 10:90-6.1(c)(1)(iii). Based on the foregoing, the ALJ concluded that Petitioner's chronic alcohol abuse and mental health issues left her without a realistic capacity to engage in advanced planning to avoid her homelessness, or secure appropriate housing, and therefore, the Agency's denial of Petitioner's application for EA benefits was improper, and must be reversed. See Initial Decision at 5-6; see also Exhibit R-16, and N.J.A.C. 10:90-6.1(c)(1)(iii). I agree.

Exceptions to the Initial Decision were filed by the Agency on July 13, 2018.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.



By way of comment, the Agency imposed upon Petitioner a six-month period of ineligibility for EA benefits effective April 19, 2018, through October 18, 2018. See Exhibit R-16. Because I concur with the ALJ's finding that the Agency's denial of Petitioner's application for EA benefits was improper and must be reversed, I also find that the Agency's imposition of a six-month EA ineligibility penalty was improper and must be reversed.

By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

**JUL 18 2018**

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Natasha Johnson  
Director

