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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 17529-18 O.T.

AGENCY DKT. NO. C353753007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that she failed to show up at the Agency shelter placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 11, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 12, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

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 hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination.

Here, the record reflects that Petitioner failed to show up and stay at the Agency's shelter placement on November 30, 2018, as scheduled. See Initial Decision at 3-4; see also Exhibits R-1 through R-4. The ALJ found, however, that Petitioner had good cause for such failure, having relied upon two shelter workers' directives that she could begin her stay at the shelter on December 1, or December 2, 2018. See Initial Decision at 3-4. This additional time to enter the shelter was given to allow Petitioner the opportunity to move her belongings, as well as her infant twin daughters, from a prior shelter placement provided by the Division of Child Protection and Permanency ("DCCP"). *Id.* at 3. Upon arriving at the shelter on December 1, 2018, the shelter advised Petitioner that a new shelter placement voucher would be needed from the Agency in order for her to reside there. *Id.* at 3-4. However, Petitioner's request for an updated voucher from the Agency was denied, and as a result of Petitioner's failure to show up at the shelter on November 30, 2018, the Agency also denied Petitioner EA benefits and imposed a six-month EA ineligibility penalty. *Id.* at 4; see also Exhibits P-1. Based on Petitioner's credible testimony and the evidence presented, the ALJ concluded that Petitioner was eligible for EA benefits, and that



the Agency's termination of said benefits, and its imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 5-7; see also Exhibit P-1.

While I agree with the ALJ's ultimate conclusion, I find that the ALJ's legal analysis was incorrectly based on an erroneous finding that the Agency's action was a termination of EA benefits and hence, the ALJ applied incorrect regulatory authority. See Initial Decision at 4-7; see also N.J.A.C. 10:90-6.3(c), (g). Rather, I find that Petitioner was approved for immediate need housing assistance, which is not considered EA benefits, and as such, there were no EA benefits to be terminated. See Exhibits R-2, R-3; and N.J.A.C. 10:90-1.3(a)(2). Further, the record reflects that the Agency denied Petitioner EA benefits. See Exhibit P-1. Additionally, because the record reflects that Petitioner has not yet been approved for Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, I find that she is eligible for EA benefits contingent upon her first being approved for WFNJ/TANF benefits. See Initial Decision at 2; see also N.J.A.C. 10:90-6.2(a) (limiting eligibility for EA benefits to WFNJ and Supplemental Security Income benefits recipients). The Initial Decision is modified to reflect these findings.

By way comment, as the record indicates that Petitioner may have an open case with DCPD, a copy of the Initial and Final Decisions shall be forwarded to DCPD. See Initial Decision at 2.

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

Officially approved final version.

DEC 17 2018

Natasha Johnson
Director

