



State of New Jersey

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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 14217-18 R.T.

AGENCY DKT. NO. C684524007 (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 had the capacity to plan to avoid her emergent situation, but failed to do so, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 15, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 1, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on November 16, 2018.

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

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" to avoid their emergent situation. Documentation must be presented to the Agency demonstrating that an eviction is pending or has occurred. See N.J.A.C. 10:90-6.3(a)(1)(ii). Such documentation may be in the form of a letter from a landlord or other person, such as a family member or relative, serving in such a capacity. Ibid.

Here, the record reflects that since 2012, Petitioner and her two children, with the permission of the landlord, had been living with her mother and her mother's 21-year-old son, in a three bedroom apartment. See Initial Decision at 2; see also Exhibit P-1. However, Petitioner is expecting her third child any day now, and upon learning of Petitioner's pregnancy, the landlord advised Petitioner's mother, in a letter dated August 26, 2018, that he could not legally allow six people to reside in a three-bedroom apartment. See Initial Decision at 2; see also Exhibits P-2, P-3. As evidenced by that landlord letter, Petitioner is now facing imminent eviction from that apartment; however, in an effort to help Petitioner avoid homelessness, the landlord has offered to house Petitioner in a one-bedroom apartment in the same building. See Initial Decision at 2, 4; see also N.J.A.C. 10:90-6.3(a)(1)(ii). Petitioner testified that her pregnancy came as a complete surprise to her, as she was advised years earlier that she would not be able to have more children. See Initial Decision at 3. Nevertheless, the Agency denied Petitioner EA benefits, claiming that she had known when she moved into her mother's apartment in 2012, that only five people were permitted to reside there, yet she failed to find affordable permanent housing for herself and her soon to be three children, thereby causing her own homelessness. Id. at 1-2; see also Exhibits P-2, R-1, and N.J.A.C. 10:90-6.1(c)(3).



The ALJ found Petitioner credible when she testified that, as far as she knew, she would have been able to continue to live with her mother, but for the birth of this new child; that she had believed that it was medically impossible for her to become pregnant again; and therefore, that it was not necessary to search for alternate housing. See Initial Decision at 3-4. Further, the ALJ found that the Agency's speculative reliance on actions that Petitioner could have taken, going back to 2012, did not require further comment, and did not justify the Agency's denial of EA benefits to Petitioner. Id. at 4. Based on the evidence presented, the ALJ concluded that Petitioner did not fail to plan, that she did not cause her own homelessness, and that she is imminently homeless, and therefore, that the Agency's denial of EA benefits to Petitioner was improper and must be reversed. Id. at 3-5; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c), -6.3(a)(1)(ii). I agree.

Additionally, because I concur with the ALJ's conclusion, I find that the Agency's imposition of a six-month EA ineligibility penalty upon Petitioner was also improper and must be reversed. See Initial Decision at 4-5; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c)(3).

By way of 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.

NOV 28 2018

Natasha Johnson
Director

