



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Assistant Commissioner

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 **06792-24 M.S.**

AGENCY DKT. NO. **C849381007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's application for EA benefits, contending that she had the capacity to plan to avoid her emergency, but failed to do so, and that she had failed to provide proof of eviction notice/proof of emergency. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 23, 2024, the Honorable Kelly J. Kirk, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 24, 2024, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, 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 MODIFY the Agency's determination, based on the discussion below.

In order to be EA eligible, the assistance unit must be in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan. See N.J.A.C. 10:90-6.1(c). The lack of a realistic capacity to plan exists when the assistance unit can demonstrate 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. See N.J.A.C. 10:90-6.1(c)(1)(i). *Ibid.* Additionally, EA shall not be provided for a period of six months when an applicant has caused his or her, without good cause. See N.J.A.C. 10:90-6.1(c)(3).

Here, the ALJ in this matter issued a very thorough and comprehensive Initial Decision, outlining the procedural history, providing a detailed factual timeline, and rendering a well thought out analysis, applying law to fact. See Initial Decision at 2-8. Specifically, the ALJ found, and the record substantiates, that Petitioner is not homeless or imminently homeless, as no eviction proceedings had occurred at the time of her EA application, or at the time of the fair hearing. See Initial Decision at 5, 8; see also Exhibits P-1 at 31, R-3, and N.J.A.C. 10:90-6.1(c), -6.3(a)(1)(ii). Additionally, the ALJ found that Petitioner had the capacity to plan to avoid her emergency, as she had sufficient time, since the time of her temporary housing placement in 2021, to secure employment and to find permanent housing, but failed to do so. See Initial Decision at 2-4, 7-8; see also Exhibit P-1 at 4-22, 25-30; see also N.J.A.C. 10:90-6.1(c)(1)(i). Further, the ALJ found that Petitioner does not have an open Department of Child Protection and Permanency case, was not the victim of domestic violence, nor did she provide evidence of a functional incapacity to plan, such that EA benefits eligibility may be found. See Initial Decision at 4-7; see also Exhibits P-1 at 2-3, R-4, and N.J.A.C. 10:90-6.1(c)(1)(iii), -6.1(c)(6), (7), (8). Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was proper and must stand. See Initial Decision at 8; see also Exhibit R-2. and N.J.A.C. 10:90-6.1(c)(1)(ii). I agree.



Additionally, as I concur with the ALJ's ultimate conclusion, and concur that Petitioner had the capacity to plan to avoid her emergent situation, but failed to do so, I also find that Petitioner caused her own homelessness, and as such, is ineligible for EA benefits for a period of six-months. See Initial Decision at 5-8; see also N.J.A.C. 10:90-6.1(c)(3). Both the Initial Decision and the Agency's determination are modified to reflect this finding.

By way of comment, Petitioner's six-month period of ineligibility for EA benefits shall run from May 13, 2024, the effective date of the Agency's denial, through November 13, 2024. See Exhibit R-2.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is MODIFIED, as outlined above.

Officially approved final version. June 04, 2024

Natasha Johnson
Assistant Commissioner

