



State of New Jersey

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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 01365-18 C.W.

AGENCY DKT. NO. C203523007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of ("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 abandoned affordable housing, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 26, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 29, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on January 31, 2018.

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, and AFFIRM the Agency's determination.

An appeal from an Agency's adverse action must be made within 90 calendar days of such action. See N.J.A.C. 10:90-9.10. That time limit may not be expanded, unless extraordinary and extenuating circumstances exist, such as serious illness, as determined by DFD. See N.J.A.C. 10:90-9.10.

Based on an independent review of the record, I find that the Agency's adverse action notice to Petitioner was dated September 1, 2017. See Exhibits R-1, R-2. The Agency denied EA benefits to Petitioner on that date, contending that she abandoned permanent affordable housing, thereby causing her own homelessness, which, consequently, required the imposition of a six-month EA ineligibility penalty. See Initial Decision at 2-3; see also N.J.A.C. 10:90-6.1(c)(3)(vii).

The transmittal in this matter shows that Petitioner requested a fair hearing, appealing the Agency's September 1, 2017, denial, on January 23, 2018. Therefore, it is clear from the record that Petitioner did not appeal the September 1, 2017, denial of EA benefits, or the consequent six-month EA ineligibility penalty, within the 90-day timeframe for appeal, and is now out of time to do so. See Exhibits R-1, R-2, and N.J.A.C. 10:90-9.10. As such, consideration by the ALJ of any good cause basis for Petitioner's abandonment of permanent affordable housing, the Agency's subsequent denial of EA benefits, and the imposition of a six-month EA ineligibility penalty, is now untimely and improper. See N.J.A.C. 10:90-9.10. Moreover, I find no extraordinary circumstances in the record which would warrant expansion of that time. Ibid. Furthermore, I note that Petitioner provided no copy of a Warrant of Removal or any documentation pertaining to a lawsuit against her landlord, nor does her application for EA benefits make any mention of an infestation issue at her residence, which Petitioner claimed was the basis for abandoning her affordable housing. Accordingly, I find that the Agency's September 1, 2017, denial of EA benefits to Petitioner, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Exhibit R-1.



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By way of 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.

By way of further comment, Petitioner may re-apply for EA benefits after the six-month period of EA ineligibility has expired on March 31, 2018, provided she continues to need EA benefits and is otherwise eligible for same, in accordance with N.J.A.C. 10:90-6.1 et seq.

Accordingly, the Initial Decision is hereby REJECTED, and the Agency's action is AFFIRMED.

Officially approved final version.

FEB 16 2018

Natasha Johnson

Director

