



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 04784-18 M.E.

AGENCY DKT. NO. C212806016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA") benefits and the denial of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's WFNJ/GA benefits due to excess resources and denied Petitioner EA benefits contending that Petitioner had the capacity to plan, but failed to do so, thereby causing his own emergent situation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. A hearing was initially scheduled for April 6, 2018, but was then adjourned and rescheduled for April 11, 2018. On April 11, 2018, the Honorable Ellen S. Bass, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

Also on that day, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reflects that in March 2018, Petitioner received a personal injury settlement in the amount of \$9,553.35. See Initial Decision at 2; see also Exhibits R-1 at 1, P-1. Petitioner owes his landlord \$7,971.00 in back rent; however, instead of paying his back rent with his personal injury settlement, Petitioner chose to pay off personal loans, medical expenses, and automobile expenses. See Initial Decision at 2; see also Exhibits P-1, P-3, R-1 at 8. On March 28, 2018, the Agency terminated Petitioner's WFNJ/GA benefits finding him ineligible for said benefits due to his countable resources. See Initial Decision at 2; see also Exhibit R-1 at 4. Moreover, the Agency found that Petitioner was subject to a period of ineligibility for WFNJ cash benefits, pursuant to N.J.A.C. 10:90-3.18(d). See Initial Decision at 3; see also Exhibit R-1 at 4. Further, at the time Petitioner received his personal injury settlement, the Agency was working with him to secure EA benefits. See Initial Decision at 2. Thereafter, the Agency denied Petitioner EA benefits contending that, in choosing to use his lump sum settlement for payments other than rent, he had the realistic capacity to avoid his emergent situation, but chose not to do so. See Exhibit R-1 at 9, and N.J.A.C. 10:90-6.1(c)(3)(v). The ALJ agreed, and therefore concluded that the Agency's termination of Petitioner's WFNJ/GA benefits, and imposition of a period of ineligibility, as well as the denial of EA benefits to Petitioner, were proper and must stand. See Initial Decision at 4-5; see also Exhibit R-1 at 4, 9, and N.J.A.C. 10:90-3.18, and N.J.A.C. 10:90-6.1(c). I agree.

Exceptions to the Initial Decision were filed on April 17, 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 and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, as I agree with the ALJ that Petitioner had the capacity to avert this emergent situation, but chose not to do so, I find that Petitioner caused his own homelessness, and is therefore subject to a six-month period of ineligibility



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for EA benefits. See N.J.A.C. 10:90-6.1(c)(3). The six-month period of ineligibility for EA benefits shall run from March 29, 2018, the effective date of the Agency's denial of said benefits, through September 28, 2018. See Exhibit R-1 at 9.

By way of further comment, I have reviewed Petitioner's Exceptions. Pursuant to N.J.A.C. 1:1-18.4(c), I am not permitted to consider documents as evidence that were not submitted at the hearing for consideration by the ALJ. I do note, however, that Petitioner's Exceptions reference a 2017 settlement from a prior fair hearing. The transmitted issue in the present hearing before me is not a failure to comply with a settlement, but rather, the termination of WFNJ/GA benefits and denial of EA benefits. I also note that the plain language of that prior settlement does not indicate any promise to Petitioner of EA benefits, but rather, that Petitioner may reapply and his eligibility will be reconsidered. See Withdrawal of Appeal and Fair Hearing Request/Settlement, dated November 17, 2017, OAL Docket number HPW 16888-17.

Also by way of comment, it appears from Petitioner's Exceptions that he may now be a recipient of Supplemental Security Income ("SSI") benefits. If that is the case, as an SSI benefits recipient, Petitioner would be ineligible for WFNJ/GA benefits, due to the increase in unearned income. See N.J.A.C. 10:90-3.4. Further, although SSI benefits recipients are eligible for EA benefits, see N.J.A.C. 10:90-6.2, Petitioner's mismanagement of funds, and the six-month EA ineligibility penalty imposed herein, would render him ineligible for EA benefits at the present time. See N.J.A.C. 10:90-6.1(c)(3)(v).

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

Officially approved final version.

APR 19 2018

Natasha Johnson
Director

