



State of New Jersey

CHRIS CHRISTIE
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Director
Tel. (609) 588-2000

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 01282-18 N.S.

AGENCY DKT. NO. S540893012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner WFNJ/TANF benefits contending that she failed to provide verifications required to determine WFNJ/TANF benefits eligibility, and denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner failed to comply with her EA service plan ("SP") by being terminated from her shelter placement, without good cause. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 26, 2018, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 29, 2018, the ALJ issued an Initial Decision, affirming 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 MODIFY the Agency's determination.

N.J.A.C. 10:90-1.3(a) states, "All applicants for WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determined that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made."

Pursuant to N.J.A.C. 10:90-6.1(c)(3)(vi), EA benefits shall not be provided for a period of six months when the adult applicant's or recipient's behavior directly caused the eviction, without good cause.

Only WFNJ and Supplemental Security Income ("SSI") benefits recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

I have reviewed the record in this matter, and while I concur with the ALJ's ultimate conclusion, that the Agency's denial of EA benefits to Petitioner and its imposition of a six-month EA ineligibility penalty were proper, I find that the regulatory basis, N.J.A.C. 10:90-6.6(a), pertaining to an SP violation, upon which the Agency and ALJ relied, was misplaced. See Initial Decision at 9; see also Exhibit R-8. Rather, I find that the correct regulatory bases for the Agency's denial, and EA penalty are N.J.A.C. 10:90-6.1(c)(3)(vi) and N.J.A.C. 10:90-6.2(a). Specifically, based on an independent review of the record, I find that prior to approval for WFNJ/TANF and EA benefits, Petitioner, her fiancé, and their two minor children, received immediate need benefits, and were placed in a motel by the Agency. Initial Decision at 2; see also



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N.J.A.C. 10:90-1.3(a). Immediate need benefits are not considered EA benefits, and as such, an SP is not required, nor controlling. See N.J.A.C. 10:90-6.6(a). However, based on the evidence presented, the ALJ found that Petitioner's fiancé had caused the destruction of motel property, resulting in their termination from the motel placement, and as such, I find that pursuant to N.J.A.C. 10:90-6.1(c)(3)(vi), Petitioner is ineligible for EA benefits for a period of six-months. See Initial Decision at 3-8; see also Exhibits P-1, R-5, R-6, and R-7. Moreover, at the time of the Agency's denial of EA benefits to Petitioner, Petitioner had not been approved for WFNJ benefits, and therefore, as she was not a WFNJ or SSI benefits recipient, she was also ineligible for EA benefits. See Initial Decision at 2 n. 1; see also Exhibit R-9, and N.J.A.C. 10:90-6.2(a). The Initial Decision and the Agency's determination are modified to reflect this finding.

By way of comment, the transmittal in this matter indicates that Petitioner also appealed a denial of WFNJ/TANF benefits. However, the record indicates that Petitioner was not contesting the denial of said benefits at the hearing, and has since reapplied for WFNJ/TANF benefits. See Initial Decision at 2 n. 1. Therefore, Petitioner's WFNJ/TANF issue is now moot, and not addressed in this Final Decision.

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.

Officially approved final version.

FEB - 2 2016

Natasha Johnson
Director

