



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 03883-18 T.P.

AGENCY DKT. NO. C375933007 (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, and that her emergent situation was not beyond her control. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 20, 2018, the Honorable Elia A. Pelios, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 22, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on March 26, 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 REJECT the ALJ's Initial Decision, and AFFIRM the Agency's determination.

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). Additionally, EA benefits shall not be provided for a period of six months when an applicant "has caused his or her own homelessness, without good cause." See N.J.A.C. 10:90-6.1(c)(3).

Here, Petitioner was residing in subsidized housing by arrangement with the office of Housing and Urban Development ("HUD"), with a monthly rent of \$1,300, of which she was only responsible for paying \$5.00 per month. See Initial Decision at 2; see also Exhibits R-5A, R-5B, and R-6. On October 1, 2017, Petitioner was scheduled for a recertification meeting with HUD regarding the continuation of her subsidized housing assistance, but she failed to appear, and as a result, she lost her subsidy and became responsible for the full \$1,300 monthly rent. See Initial Decision at 2; see also Exhibits R-3, R-4. Petitioner claimed that she failed to attend the scheduled meeting because she was depressed due to the death of her father, and the need to care for her sick mother. See Initial Decision at 3. Petitioner testified that she made one attempt to reschedule her recertification meeting, but was unsuccessful, claiming that no one was in the management office for her housing location, and that she could not get to the office after that because she was "working at that time, sometimes six days straight, from morning until night." See Initial Decision at 4. On March 13, 2018, Petitioner applied for EA benefits, at which time she was six months behind in her rent, and was facing eviction. See Initial Decision at 3; see also Exhibits R-1 at 1-8, R-8. Although Petitioner's aforementioned claims were unsubstantiated, and no documentation was ever provided to the Agency regarding her particular circumstances, the ALJ, nevertheless, concluded that Petitioner lacked the capacity to plan to avoid her emergent situation, that her emergent situation was due to circumstances beyond her control, and that the Agency failed to take Petitioner's circumstances into consideration. See



Initial Decision at 3-7. As such, the ALJ concluded that the Agency's denial of EA benefits to Petitioner, and its imposition of a six-month EA ineligibility penalty, was improper. See Initial Decision at 8-9; see also Exhibit R-2, and N.J.A.C. 10:90-6.1(c). I respectfully disagree.

Specifically, the record reflects that Petitioner acknowledged that she failed to attend her HUD recertification hearing, and that she had six months to resolve her issue with HUD, but failed to do so, thereby resulting in her imminent homelessness. See Initial Decision at 3-4. Further, although Petitioner claimed that she could not resolve her HUD recertification issue because she was working, Petitioner's EA benefits application indicates that she was only working from November 2017, to December 2017, and therefore, I find that she should have had ample time within that six-month window to attempt to resolve her emergent situation. See Initial Decision at 4; see also Exhibit R-1 at 3. Additionally, although Petitioner claimed that she could not resolve her situation with HUD due to mental health issues, the record reflects that she was nonetheless able to obtain employment, apply for WFNJ benefits, and come into compliance with a WFNJ sanction, during that same time period. See Initial Decision at 2, 4; see also Exhibit R-1. Based on the foregoing, I find that Petitioner had the capacity to plan to avoid her emergent situation, but failed to do so, by failing to attempt to contact HUD on more than one occasion, thereby causing her own homelessness, without good cause. See N.J.A.C. 10:90-6.1(c)(3)(vi). Accordingly, I find that the Agency's denial of EA benefits to Petitioner, and its imposition of a six-month period of EA ineligibility, were proper and must stand. See Exhibit R-2.

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.

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

Officially approved final version.

APR 11 2018

Natasha Johnson
Director

