



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Director

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 09670-19 C.S.

AGENCY DKT. NO. C282723016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner, hereinafter referred to as "D.D.", appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied D.D. EA benefits, contending that he had sufficient funds from a federal income tax return to secure housing, and therefore had the realistic capacity to plan to avoid his emergency, but failed to do so. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 5, 2019, the Honorable Danielle Pasquale, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 23, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of Petitioner, on September 4, 2019.

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 ADOPT the ALJ's Initial Decision, and AFFIRM the Agency's determination.

In order to be eligible for EA benefits, 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 available funds were exhausted on items deemed necessary, appropriate, or reasonable for decent living, and that such expenditures were made as a result of a significant occurrence or from meeting the expenses of daily living. See N.J.A.C. 10:90-6.1(c)(1)(ii). These expenses must be documented in the case record. Ibid. Additionally, EA 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, the ALJ found that on May 24, 2019, D.D. had received a federal tax refund in the amount of \$4,905.10, after garnishment for an earlier tax liability. See Initial Decision at 2-3; see also Exhibits P-1, R-1 at 3-14. At that time, D.D. was temporarily residing with a friend, and was also receiving \$551 in monthly Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. See Initial Decision at 2-3. The record also reflects that D.D. had earned income from



employment until April 2019, when he was laid off. Id. at 3; see also Exhibits P-2, R-1 at 27-30. D.D. was ineligible for Unemployment Insurance Benefits. See Initial Decision at 3. D.D. applied for EA benefits on June 17, 2019. Id. at 2; see also Exhibit R-1 at 20-26. On June 22, 2019, the Agency denied D.D. EA benefits, contending that he had sufficient funds to secure affordable permanent housing, but failed to do so, and spent his tax refund on items other than housing, thereby causing his own homelessness. See Initial Decision at 2; see also Exhibit R-1 at 1-2. The ALJ found that D.D. spent the majority of his tax refund on unnecessary items, including but not limited to: credit card debt, \$3,000 to retrieve his repossessed car, fees to restore his driver's license, moving violations, frequent dinners out, trips to the liquor store, and hotel stays for the mother of his children. See Initial Decision at 3-4; see also Exhibits P-2, P-5, P-7, P-8. Further, the ALJ found that D.D. had squandered his tax refund in superfluous ways, rather than search for, and spend his tax refund on, affordable permanent housing. See Initial Decision at 4.

Based on the foregoing, the ALJ concluded that D.D. had the capacity to plan, but failed to do so, thereby causing his own homelessness, and that he is, therefore, ineligible for EA benefits. See Initial Decision at 5-6; see also N.J.A.C. 10:90-6.1(c)(1)(ii). Accordingly, the ALJ affirmed the Agency's denial of EA benefits to D.D. See Initial Decision at 6; see also Exhibit R-1 at 1-2. I agree.

By way of comment, because I concur with the ALJ's conclusion, I hereby impose a six month period of ineligibility for EA benefits upon D.D. See Initial Decision at 5-6; see also N.J.A.C. 10:90-6.1(c)(3). Petitioner's six-month EA ineligibility penalty shall run from June 27, 2019, the date of the Agency's denial of EA benefits, through December 26, 2019. See Exhibit R-1 at 1-2.

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.

Also, by way of comment, I have reviewed the Exceptions submitted on behalf of Petitioner, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

SEP 25 2019

Natasha Johnson
Director

