



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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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 3430-15 M.T.

AGENCY DKT. NO. C112392 (BURLINGTON COUNTY BD. OF SOC. SVCS.)

Petitioner appeals Respondent Agency's termination of Emergency Assistance ("EA") benefits based upon non-compliance with her Service Plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On March 18, 2015, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, admitted documents into evidence, and issued an Initial Decision which reversed the Agency determination.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I reviewed the record and the ALJ's Initial Decision, and having made an independent evaluation of the record, I ADOPT the Findings of Fact and Conclusions of Law in the Initial Decision and REVERSE the Agency determination.

The purpose of EA is to meet the needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work related activities without disruption in order to continue on the path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA is available when the assistance unit is in a state of homelessness due to circumstances beyond its control or the absence of a realistic capacity to plan for substitute housing, and the Agency determines that EA is necessary for health and safety. N.J.A.C. 10:90-6.1(c).

"Receipt of EA is contingent upon the recipient taking reasonable steps toward resolving the emergent situation. Reasonable steps shall include the recipient's signature on a written notice of recipient responsibilities while receiving temporary housing/shelter; participation in formulating, complying with and carrying out [an SP] . . . and following agency recommendations. Failure to comply with the mandatory activities of the [SP] without good cause shall result in termination of EA benefits for a period of six months." N.J.A.C. 10:90-6.6(a); -6.1(c)(3)(ix).

The ALJ is authorized to determine the credibility of witnesses and the admissibility and weight of proffered documents in order to develop an adequate record that supports the Initial Decision. N.J.A.C. 1:1-14.6(i). The rules of evidence are relaxed and hearsay is admissible in the OAL, but "some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." N.J.A.C. 1:1-15.5(b). Applying these standards, the ALJ credited the testimony of Petitioner and her boyfriend that she spent nights at her motel placement in compliance with the SP, and rejected the unsupported hearsay statements of motel personnel to the contrary. Initial Decision at 2-5; Exhibit R-1 at 20-21.

By way of comment, the record suggests Petitioner did not comply with an Agency recommendation that she file a police report in connection with an allegation of unspecified harassment by a motel employee in October 2014, but instead stayed away from her motel room during the day, possibly for a period of several months. Initial Decision at 2-3. The Agency did not rely upon this alleged circumstance to terminate EA benefits, and the record does not contain sufficient credible evidence to substantiate a termination on these grounds. Likewise, there is no indication that the Agency considered an alternative EA placement in response to Petitioner's presumed safety concerns.

Accordingly, the Initial Decision is ADOPTED and the Agency determination is REVERSED.

Signed Copy on File
at DFD, BARA

MAR 25 2015

Jeanette Page-Hawkins
Director