



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 11750-14 G.C.

AGENCY DKT. NO. C273693 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits because she moved to New Jersey without a plan. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law for a hearing. On October 3, 2014, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), held a hearing, took testimony and admitted documents. On the same date, the ALJ issued an Initial Decision, which reversed the Agency's denial of EA. The ALJ found Petitioner is entitled to EA based on her circumstances, which included leaving Florida after her daughter was molested and the perpetrator harassed her.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision, and having reviewed the record, I AFFIRM and MODIFY the ALJ's Initial Decision. I modify the Initial Decision to clarify the regulatory basis upon which Petitioner is entitled to EA benefits.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA, N.J.A.C. 10:90-6.1(c) provides, in relevant part, that the individual must have an "actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing."

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Here, Petitioner left her residence in Florida after her daughter was molested and the perpetrator began to harass her. Petitioner moved in with a friend in Pennsylvania, but conditions there were unsafe and she moved to New Jersey to live with her sister temporarily until she was able to locate an apartment. Viewing Petitioner's situation as a whole, I find Petitioner's circumstances were entirely outside of her control. As such, the Agency improperly denied Petitioner EA and is directed to provide Petitioner with EA immediately. To the extent that Petitioner has any rental arrearages, the Agency must also provide EA in the form of retroactive rent payments.

Although I agree with the ALJ that Petitioner is entitled to EA, N.J.A.C. 10:90-6.1(c)7 is not applicable to Petitioner's situation. That particular regulation applies when domestic violence results in a parent and her children leaving their customary residence. While there is mention of harassment by the perpetrator towards Petitioner herself in the Initial Decision, there is no indication that a domestic violence restraining order was sought by or issued to Petitioner. Rather, the molestation of Petitioner's 14 year old daughter appears to have been the precipitating incident that resulted in Petitioner's leaving Florida, and that incident does not appear to fall under the auspices of domestic violence. See N.J.S.A. 2C:25-19d(defining under the Prevention of Domestic Violence Act a "victim" as a person who is 18 years of age or older, or an emancipated minor, subjected to domestic violence by a spouse, former spouse or other household member; or, a person with whom the victim has had a dating relationship, has a child in common or is pregnant with a child in common). Thus, N.J.A.C. 10:90-6.1(c)3 more appropriately supports the provision of EA benefits to Petitioner in her circumstances.

Accordingly, the Initial Decision is AFFIRMED and MODIFIED and the Agency's action is REVERSED.

OCT 31 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director