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Assistant Commissioner

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 13530-19 J.M.

AGENCY DKT. NO. C179014009 (HUDSON COUNTY DEPT OF FAM SVCS)

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 failed to comply with her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 3, 2019, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 4, 2019, 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, based on the discussion below.

EA benefits shall not be provided for a period of six months when an EA benefits applicant "had the available funds and the capacity to prevent homelessness." See N.J.A.C. 10:90-6.1(c)(3)(v).

Here, the ALJ found that Petitioner had the funds to pay her rent, but failed to do so, in violation of the SP that she and the father of her child ("F.V.") had executed on April 3, 2019, when they had previously received EA benefits in the form of back rent only. See Initial Decision at 2-4; see also Exhibits R-2, R-3. The ALJ concluded that the Agency's denial of EA benefits to Petitioner for failure to comply with her SP was proper, but that Petitioner had already served the required six-month EA ineligibility penalty. See Initial Decision at 4-6; see also Exhibit R-4, and N.J.A.C. 10:90-6.6(a). However, based on an independent review of the record, I find that at the time Petitioner again applied for EA benefits on September 17, 2019, she was not an EA benefits recipient, and therefore, could not have been in violation of the earlier executed SP of April 3, 2019. See Initial Decision at 2-3; see also Exhibit R-3. Nevertheless, I concur with the ALJ's finding that Petitioner had sufficient funds to pay her rent, and as such, I find that Petitioner had the capacity to prevent her homelessness, but failed to do so, thereby causing her own homelessness. See Initial Decision at 3, 5; see also Exhibit R-2. Moreover, at the time that the Agency denied EA benefits to Petitioner, she was not a Work First New Jersey or Supplemental



Security Income benefits recipient, and therefore, she was also ineligible for EA benefits. See Initial Decision at 3, 5; see also Exhibit R-4, and N.J.A.C. 10:90-6.2(a). On those bases, I affirm the Agency's denial of EA benefits to Petitioner and the imposition of a six-month EA ineligibility penalty. See Exhibit R-4; see also N.J.A.C. 10:90-6.1(c)(3)(v). Further, Petitioner's six-month EA ineligibility penalty shall run from September 23, 2019, the effective date of the Agency's denial, through March 22, 2020. See Exhibit R-4. The Initial Decision, as well as, the Agency's determination, are modified to reflect these findings.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is MODIFIED, as outlined above.

Officially approved final version.

OCT 16 2019

Natasha Johnson

Assistant Commissioner

