



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 04636-19 L.R.

AGENCY DKT. NO. C057844015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that her emergency was not due to circumstances beyond her control, and that she had the capacity to plan to avoid her homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 9, 2019, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On April 10, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reflects that Petitioner's home had been in foreclosure since 2008, that she had attempted to save her home through a loan modification, which failed, and that she had known for nine months that her home was being sold at sheriff's sale in July 2018. See Initial Decision at 2-3; see also Exhibit R-7. The record also reflects that Petitioner had monthly income of approximately \$3,065 from June 2008, through March 2010, yet she had only made two payments on her mortgage between November 2010, and January 2011. See Initial Decision at 2-3; see also Exhibits R-12, R-13. Petitioner was evicted from her home in April 2019, at which time she applied for EA benefits. See Initial Decision at 3; see also Exhibits R-2, R-11. The Agency denied EA benefits to Petitioner, contending that her emergency was not due to circumstances beyond her control, and that she had the capacity to plan to avoid her emergency, but failed to do so. See Initial Decision at 3; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c). Although Petitioner claimed that she lacked the functional capacity to avoid her emergency due to certain medical issues, the ALJ found that she failed to provide any evidence to substantiate that claim. See Initial Decision at 3-4; see also N.J.A.C. 10:90-6.1(c)(1)(iii). Specifically, the ALJ found that the MED-1 form dated April 4, 2019, that Petitioner had submitted to substantiate her claim, only served to prove her current medical status. See Initial Decision at 5; see also Exhibit P-1. Further, the ALJ found that, although Petitioner may have taken affirmative steps to save her home from foreclosure, it was clear by at least July 2018, the date of the sheriff's sale, that she could not remain in her home; yet she failed to take affirmative steps to secure alternative housing during the ten years her home was in foreclosure, or in the nine months following the sheriff's sale of her home.

See Initial Decision at 4-5; see also Exhibit P-2. Based on the foregoing, the ALJ determined that Petitioner's homeless was not the result of circumstances beyond her control, and that she had the capacity to plan to avoid her emergency, but failed to do so. See Initial Decision at 5. Accordingly, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was proper and must stand. *Id.* at 5-6; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c). I agree.

Exceptions to the Initial Decision were filed by Petitioner on April 11, 2019.



As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, because I agree with the ALJ's conclusion that Petitioner had the capacity to plan to avoid her emergency, but failed to do so, I find that she caused her own homeless, and as such, I hereby impose upon her a six-month period of ineligibility for EA benefits. 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 April 1 2019, the date of the Agency's denial, through September 30, 2019. See Exhibit R-1.

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 Petitioner's Exceptions, 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 determination is AFFIRMED.

Officially approved final version.

APR 15 2019

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Natasha Johnson  
Director

