



State of New Jersey

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Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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TRENTON, NJ 08625-0716

NATASHA JOHNSON
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 14256-19 S.K.

AGENCY DKT. NO. C067808003 (BURLINGTON COUNTY BD. OF SOC. 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's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner's 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, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. A hearing was initially scheduled for August 19, 2019, but Petitioner failed to appear, and the matter was closed. The matter was reopened and retransmitted to the OAL on October 10, 2019, and a new hearing was scheduled. On October 16, 2019, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 17, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination regarding the Agency's denial of EA benefits, and reversing the Agency's imposition of six-month EA ineligibility penalty.

Exceptions to the Initial Decision were filed by the Agency on October 21, 2019.

As the Director of the Division of Family Development ("DFD"), 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 AFFIRM the Agency's determination, based on the discussion below.

Here, the record reflects that Petitioner had previously applied for EA benefits on May 28, 2019, and was denied said benefits by notice dated June 26, 2019, effective May 28, 2019, on the bases that Petitioner's 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 3-4; see also Exhibits R-1, R-2. The ALJ found that Petitioner had appealed that denial, docketed under OAL Docket Number HPW 09141-2019, and that the issues subject to that appeal were the same issues upon which this current appeal is premised. See Initial Decision at 7. During the pendency of that prior appeal, Petitioner submitted another application for EA benefits on August 12, 2019, which was denied by the Agency on that same date, and is subject of this current appeal. Id. at 4-5; see also Exhibits R-14, R-15. Further, the ALJ found that the Agency's previous denial was affirmed by the Honorable Lisa James-Beaver,



Acting Director and Chief Administrative Law Judge ("CALJ"), in an Initial Decision dated August 15, 2019, and that the findings and conclusions therein were adopted by DFD in its Final Agency Decision ("FAD") dated August 22, 2019. See Initial Decision at 7. Based on the present record, the ALJ found no basis to disturb those prior findings and conclusions by the CALJ and DFD, and concluded herein, that Petitioner's current homelessness was not due to circumstances beyond her control, and that she had the capacity to plan to avoid her emergency. Id. at 2-8. Accordingly, the ALJ concluded that the Agency's August 12, 2019, denial of EA benefits to Petitioner was proper and must stand. Id. at 7-8; see also Exhibit R-15, and N.J.A.C. 10:90-6.1(c). I agree.

However, the ALJ further concluded that because a six-month EA ineligibility penalty was not imposed by the Agency, or by DFD in its August 22, 2019, FAD, that there was no basis on the current record to warrant such penalty now. See Initial Decision at 8-9. Therefore, the ALJ reversed the Agency's imposition of a six-month EA ineligibility penalty. Ibid. I respectfully disagree. Rather, I find that although the bases for the Agency's June 26, 2019, denial of EA benefits to Petitioner are the same as the bases for its August 12, 2019, denial of EA benefits, the underlying facts are dissimilar. Specifically, at the time of the effective date of the Agency's previous denial of EA benefits to Petitioner, May 28, 2019, Petitioner was not homeless, and DFD's August 22, 2019, FAD, did not indicate that Petitioner was homeless. See Exhibit R-19. I hereby take official notice that Exhibit R-19, herein, mirrors Exhibit R-17 found in the record in the prior matter at OAL Docket Number HPW 09141-2019. See N.J.A.C. 1:1-15.2(a); see also N.J.R.E. 201(b)(4). As such, Petitioner was not found to have caused her own homelessness, and no six-month EA ineligibility was imposed in that prior determination. See Initial Decision at 8. However, as the record now indicates that Petitioner is currently homeless, and that she has caused her own homelessness, I hereby find that Petitioner is subject to a six-month EA ineligibility penalty in this action, which shall run from August 12, 2019, the effective date of the Agency's denial, through February 11, 2020. See Initial Decision at 4, 8; see also Exhibits R-15, R-19, and N.J.A.C. 10:90-6.1(c)(3). Of note, Exhibit R-19, does not clearly establish the exact date of Petitioner's homelessness. The Initial Decision is modified to reflect these findings.

By way of 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.

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

Officially approved final version.

OCT 24 2019

Natasha Johnson

Assistant Commissioner

