



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 **05616-23 S.W.**

AGENCY DKT. NO. **C026647005 (CAPE MAY COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that she had provided false information to the Agency in order to qualify for EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 28, 2023, the Honorable Sarah H. Surgent, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On June 29, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, 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 AFFIRM the Agency's determination, based on the discussion below.

N.J.A.C. 10:90-6.1(c)(3), (i) states, in pertinent part, "EA [benefits shall not] be provided for a period of six months when an adult EA applicant or recipient has caused his or her own homelessness, without good cause, for reasons that may include, but are not limited to, ... [f]or the purpose of making himself or herself eligible for EA]" See also N.J.S.A. 44:10-48.

An action, seeking a finding of an Intentional Program Violation, may only be brought by conducting an administrative disqualification hearing. See N.J.A.C. 10:90-11.1 et seq. Such actions have a specific procedural process which must be followed, including advance notice of the hearing at least 30 days prior to the scheduled hearing date, and with service of said notice by certified mail return receipt requested. See N.J.A.C. 10:90-11.5(f). This procedure is mandatory and cannot be omitted, as it ensures that due process is afforded prior to the finding of an IPV and the imposition of the attendant periods of disqualification from participation in the Work First New Jersey ("WFNJ") program. See N.J.A.C. 10:90-11.11(a).



Based on an independent review of the record, I concur with the ALJ's finding that, for the purposes of making herself eligible for EA benefits, Petitioner deliberately misrepresented information to the Agency by submitting a fraudulent lease indicating that her monthly rent was within the Fair Market Rent ("FMR"), as required for EA Temporary Rental Assistance ("TRA") benefits eligibility. See Initial Decision at 2-3; see also Exhibit R-1 at 17-35, 38-39. Further, I concur with the ALJ's finding that Petitioner's landlord's testimony, wherein he attested to Petitioner's monthly rent being within the FMR at \$2,936, was not credible as it was contradicted by the documentary evidence he submitted, as well as his prior statements. See Initial Decision at 2-4; see also Exhibit P-1. Further, the ALJ found that Petitioner had been notified in writing by the Agency that she would be subject to ineligibility for EA benefits for a period of six months if any statements made were willfully false. See Initial Decision at 2; see also Exhibit R-1 at 54. Based on the foregoing, I concur with the ALJ's ultimate conclusion that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 6; see also Exhibit R-1 at 11-15.

However, I respectfully disagree with the ALJ's basis for said conclusion being "the Board has clearly established by competent credible evidence that [Petitioner] committed an IPV, and that her six-month disqualification from EA benefits is required." See Initial Decision at 5-6. Rather, I find that in order for an IPV to be established the specific procedural process set forth at N.J.A.C. 10:90-11.1 et seq. must be followed. It is clear from the record that such procedural process had not been followed by the Agency, and therefore an IPV cannot be imposed here. See N.J.A.C. 10:90-11.1 et seq. Rather, I find Petitioner to be in violation of N.J.A.C. 10:90-6.1(c)(3)(i), outlined above, and that the six-month EA ineligibility penalty is imposed in accordance with that regulation. 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.

Also, by way of comment, Petitioner's six-month EA ineligibility penalty shall run from June 30, 2023, the effective date of the Agency's EA termination, through December 29, 2023. See Exhibit R-1 at 12.

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

Officially approved final version. July 19, 2023

Natasha Johnson
Assistant Commissioner

