



State of New Jersey

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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 **01757-24 K.S.**

AGENCY DKT. NO. **C063011008 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") for past due rent, prospective rent, and past due utility payments. The Agency denied Petitioner's application for EA/TRA benefits contending that she had sufficient funds to pay her rent, but failed to do so, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 13, 2024, the Honorable Elaine B. Frick, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On February 14, 2024, 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 MODIFY the Agency's determination, based on the discussion below.

In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent 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 to avoid their emergent situation. Further, in pertinent part, EA benefits shall not be provided for a period of six months when an applicant "had the available funds and the capacity to plan to avoid homelessness." N.J.A.C. 10:90-6.1(c)(3)(v).

The ALJ in this matter issued a very thorough and comprehensive Initial Decision, outlining the procedural history, and providing a detailed and well thought out analysis, applying law to fact. See Initial Decision at 2-13. Specifically, the ALJ found, and Petitioner admitted, that she had received a \$71,000 lump sum law suit settlement in January 2023. See Initial Decision at 4, 7. Further, the ALJ found, and Petitioner admitted, that she had given funds from that settlement to her daughter for a down payment on a house, rather than pay her rent, which is considered an inappropriate and unnecessary expense for daily living. See Initial Decision at 4, 7, 11-12; see also N.J.A.C. 10:90-6.1(c)(1)(i)(ii). Additionally, the ALJ found that, aside from having paid a portion of her back rent owed, and aside from supposedly having a significant amount of those funds allegedly stolen by her nephew from her bank account, the ALJ also found that Petitioner still had \$30,000 remaining from that lump sum payment, failed to pay her rent out of those funds, spent those funds on inappropriate and unnecessary items, and failed to provide the Agency with the required spend down documentation to account for actually how those funds were spent. See Initial Decision at 3-6, 8, 11-12; see also Exhibits P-1, R-1 at 14, and N.J.A.C. 10:90-6.1(c)(1)(ii). Moreover, the ALJ found that Petitioner had a live-in boyfriend who was also on the apartment lease, and therefore responsible for half of the monthly rent owed, and as such, the Agency would only



be authorized to pay Petitioner's half of the past due rent, which would not be sufficient to avoid eviction. See Initial Decision at 3, 5-7; see also N.J.A.C. 10:90-6.1(a)(5)(i), -6.1(c)(2), -6.3(b)(5). Based on the foregoing, the ALJ concluded that Petitioner had sufficient funds and the capacity to plan to pay her rent, but failed to do so, thereby causing her own homelessness, and therefore, ineligible for EA benefits. See Initial Decision at 5-6; see also Exhibit R-1 at 32-40, and N.J.A.C. 10:90-6.1(c)(1), (3)(v). Accordingly, the ALJ concluded that the Agency's denial of EA/TRA benefits to Petitioner was proper and must stand. See Initial Decision at 12-13; see also Exhibit R-1 at 2. I agree, and as such, I hereby impose upon Petitioner a six-month period of ineligibility for EA benefits. See Initial Decision at 12-13, and N.J.A.C. 10:90-6.1(c)(3)(v). The Initial Decision and the Agency's adverse action notice are both modified to reflect this finding. See Exhibit R-1 at 2; see also N.J.A.C. 10:90-6.1(c)(3)(v).

By way of comment, Petitioner's six-month EA ineligibility penalty shall run from February 1, 2024, the effective date of denial of EA benefits, through August 1, 2024.

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.

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

Officially approved final version. February 27, 2024

Natasha Johnson
Assistant Commissioner

