



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 211-16 A.M.

AGENCY DKT. NO. C106824 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's EA benefits contending that she moved from another state to New Jersey without a plan for permanent housing. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 15, 2016, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 19, 2016, the ALJ issued an Initial Decision, reversing 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 REJECT the ALJ's Initial Decision and AFFIRM the Agency's determination.

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 in advance for substitute housing."

Pursuant to N.J.A.C. 6.1(c)(1)(ii), EA shall be provided when "[a] lack of realistic capacity to engage in advance planning [for the payment of housing] shall be said to exist." A lack of realistic capacity to plan exists where the assistance unit

demonstrates that available funds were exhausted on "items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii). Items deemed appropriate, include, but are not limited to, food, clothing, housing, attending the funeral of a family member, excessive unreimbursed medical expenses, or car payment or repairs. Ibid.

Here, the record shows that Petitioner moved from another state to New Jersey to stay with various friends and family, in November 2014. See Initial Decision at 2. The record further indicates that Petitioner obtained a job upon coming to New Jersey, which she left in September 2015, due to her pregnancy, and to which she did not return after the birth in November 2015. Ibid. Additionally, it does not appear from the record that Petitioner paid rent to any of the various parties she stayed with, yet she states that she was unable to save or make arrangements for a more permanent living arrangement. Ibid. Further, the record does not indicate that Petitioner provided the Agency with any documents demonstrating how her earned income was spent. See N.J.A.C. 10:90-6.1(c)(1)(iii).

While I find that Petitioner did not move to New Jersey without a plan, an independent review of the record indicates that she was working for almost a year, while appearing to live rent free with friends and relatives, but failed to save or manage her funds so that she could plan for affordable, permanent housing. Ibid. Therefore, I find that Petitioner had the capacity to plan for affordable, permanent housing, but failed to do so, and is ineligible for EA benefits. See N.J.A.C. 10:90-6.1(c). Accordingly, I affirm the Agency's denial of EA benefits on that basis.

However, Petitioner may reapply for EA benefits, if she continues to need EA benefits, with EA eligibility being contingent upon her presenting documentation demonstrating how she spent her earned income in accordance with N.J.A.C. 10:90-6.1(c)(1)(ii). Further, Petitioner must provide such information to the Agency within 15 days from the date of this Final Agency Decision.

Accordingly, the Initial Decision is REJECTED and the Agency's action is AFFIRMED.

Signed Copy on File

at DFD, BARA

JAN 29 2016

Natasha Johnson
Director