



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 17008-14 D.B.

AGENCY DKT. NO. V586036 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") benefits because she allegedly had a realistic capacity to plan for substitute housing. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 14, 2015, the Honorable Kelly J. Kirk, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, admitted documents, and issued an Initial Decision which reversed the Agency determination and directed the Agency to provide EA benefits until February 1, 2015.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I ADOPT the Initial Decision and REVERSE the Agency determination.

Petitioner has received Supplemental Security Income ("SSI") and Social Security Disability Insurance benefits since 2002. Initial Decision at 2; Exhibit R-13. During the past two years, Petitioner has been hospitalized three times, has undergone 10 months of mostly in-patient physical therapy, and has significant functional needs and mental health issues. Initial Decision at 2-5; Exhibit R-5. Possessed of a Section 8 voucher but presently homeless, Petitioner seeks EA benefits pending an alternate transitional or permanent housing placement with the help of a social services agency that is currently providing temporary shelter. Initial Decision at 2.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). EA is also available to SSI recipients. Ibid. In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in relevant 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 in the absence of a realistic capacity to plan in advance for substitute housing." However, when the recipient causes her own homelessness, she is ineligible for EA benefits. Ibid; see also N.J.A.C. 10:90-6.1(c)(3)(imposing a six-month period of ineligibility when the applicant has caused their own homelessness for reasons including having had available funds and capacity to prevent homelessness and/or abandoned affordable housing).

Based upon my review of the record, I find that the Agency did not meet its burden of proof to establish that Petitioner had a realistic capacity to plan in advance for substitute housing. In this regard, I note the Superior Court Law Division twice extended Petitioner's eviction after finding she diligently searched for, but was unable to locate suitable, handicap-accessible housing in the months before she left prior permanent housing. Initial Decision at 3; Exhibits R-2, R-4. I agree with the ALJ that the Agency acted reasonably in the first instance to determine that Petitioner caused her own homelessness by suffering her former partner's unauthorized tenancy in breach of her lease agreement. Initial Decision at 3-5. In particular, I note Petitioner's statements in connection with her application for EA benefits and a draft consent order in the tenancy action which identify the partner as an unauthorized occupant. Initial Decision at 4-5; Exhibits R-2, R-5, R-7, R-8, and R-10 through 12. Ultimately, however, there is no judicial finding and only circumstantial evidence that the partner was an unauthorized occupant of Petitioner's former apartment for eight years in alleged breach of a lease agreement the landlord apparently could not produce. Initial Decision at 5.

The Agency should grant EA benefits and complete an individualized Service Plan that appropriately considers Petitioner's medical condition and functional needs. Specifically, the Agency should provide EA benefits, subject to regular and periodic review, for a reasonable period of time until Petitioner is able to secure permanent affordable housing. In the interim, the Agency should cooperate with Rutgers University Behavioral Healthcare to identify and secure such housing.

Accordingly, the Initial Decision is ADOPTED and the Agency determination is REVERSED.

FEB 11 2015

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director