



State of New Jersey

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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 1656-15 H.R.

AGENCY DKT. NO. C292634 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") benefits because she moved from Burlington County to Passaic County without a plan for employment or permanent housing. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 9, 2015, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, and admitted documents. On February 13, 2015, the ALJ issued an Initial Decision which affirmed the Agency determination and directed the Agency to re-evaluate Petitioner for EA benefits and contact the Division of Child Protection and Permanency ("DCP&P"), f/k/a DYFS.

Exceptions to the Initial Decision were filed by counsel for Petitioner on February 17, 2015.

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 hereby MODIFY the Initial Decision and REVERSE the Agency determination, as discussed below.

The purpose of EA is to meet the needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work related activities without disruption in order to continue on the path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA is available when the assistance unit is in a state of homelessness due to circumstances beyond its control or in the absence of a realistic capacity to plan for substitute housing, and the Agency determines that EA

is necessary for health and safety. N.J.A.C. 10:90-6.1(c). A lack of a realistic capacity to plan exists when the assistance unit can document that it exhausted available funds 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).

The record in this matter reveals that Petitioner was laid off from her job in December 2013 and shortly thereafter, moved in with a friend as a temporary measure until she could find employment. Initial Decision at 2-3. In March 2014, Petitioner exhausted her Unemployment Insurance Benefits ("UIB"), depleted her savings and her friend required her to move out, purportedly due to family issues. Initial Decision at 2, 4; Exhibit R-1. Petitioner then moved in with her daughter's grandfather in Passaic County. Ibid. In December 2014, Petitioner applied for, and the Agency granted, various forms of assistance including Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. Initial Decision at 4. Petitioner's child's grandfather is now demanding that Petitioner and her child move out for various reasons, including a lack of space and issues with a family member who resides there permanently. See Exhibit P-1. Petitioner then applied for EA benefits in January 2015, which the Agency denied, contending that Petitioner had vacated affordable housing in Burlington County, without good cause, and moved to Passaic County without a plan or promise of employment and permanent housing. Initial Decision at 4, para. 1.

The ALJ in this matter found Petitioner's testimony credible that she was unaware that she could have requested an extension of UIB, and also was unaware that she could have applied for WFNJ and EA benefits in Burlington County. Initial Decision at 4, para. 12-13. The ALJ then concluded that, while Petitioner had not exhausted all available remedies to her before she left Burlington County, Petitioner is now facing a new housing emergency and is imminently homeless. Initial Decision at 7; Exhibit P-1. However, the ALJ then ultimately opined that the Agency's determination should be affirmed. Initial Decision at 7.

While I concur with ALJ's analysis in this matter, I respectfully disagree with the final conclusion that the Agency determination should be affirmed. It is now almost a year since Petitioner left Burlington County. As such, the move from Burlington County to Passaic County is too remote in time for consideration in regards to Petitioner's EA eligibility. Based upon an independent review of the record, and as found by the ALJ, Petitioner is now facing a new housing emergency. There is no indication in the record that Petitioner has previously received EA benefits and as such, I find, based upon the foregoing facts, that Petitioner is entitled to EA benefits in a form to be determined by the Agency. It is on this basis that I modify the ALJ's Initial Decision.

The ALJ in this matter directed the Agency to immediately contact DCP&P, conceivably due to the homelessness that would occur as a result of the ALJ's

determination. However, in light of my determination to reverse the Agency's determination, I leave to the Agency's discretion to evaluate and determine if DCP&P should be contacted in regards to this case.

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

MAR 02 2015

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director