



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
Director
Tel. (609) 588-2000

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 7051-14 K.T.

AGENCY DKT. NO. V842895 (CUMBERLAND COUNTY BD OF SOC SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On July 9, 2014, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On July 18, 2014, the ALJ issued an Initial Decision which affirmed the Agency determination.

The Agency submitted exceptions on July 24, 2014.

As Director of the Division of Family Development, Department of Human Services, I independently reviewed the record and hereby MODIFY the Initial Decision and AFFIRM the Agency determination.

Petitioner receives Social Security Disability Insurance, Social Security Income ("SSI") and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits. It appears Petitioner's medical history is positive for mental health issues.

In January 2014, the Social Security Administration decreased the amount of Petitioner's monthly SSI benefit in order to recover an overpayment. During the same approximate period of time, Petitioner bought a car as part of an effort to obtain permanent employment. As a result, Petitioner was evicted from his long-time apartment in February 2014 for non-payment of rent.

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In March 2014, the Agency granted EA in the form of a shelter placement, presumably based upon immediate need. Petitioner later declined EA in the form of a motel or similar placement, and shortly thereafter obtained employment and permanent affordable housing. In June 2014, the Agency appropriately terminated EA because Petitioner's countable income was more than double the amount of the rent of his substitute housing.

I disagree with the ALJ's reasoning in finding the Agency appropriately terminated EA.

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 to self-sufficiency. N.J.A.C. 10:90-6.1(a). In relevant part, EA is indicated when "shelter costs equal or exceed total recorded income ... and the recipient is unable to document other sources of income" or when the applicant's income is reduced "as a result of the reduction in WFNJ benefits or other available income, through no fault of the individual or family." N.J.A.C. 10:90-6.1(a)(1) and (a)(3).

EA is available where 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." N.J.A.C. 10:90-6.1(c). A lack of realistic capacity to plan exists where the assistance unit demonstrates functional incapacity such as a mental or cognitive impairment that would prevent them from planning for or securing substitute housing. N.J.A.C. 10:90-6.1(c)(1)(iii).

The ALJ found Petitioner caused his own homelessness and was not eligible for EA in the first instance. The initial grant of EA was not an issue before the OAL. Under the totality of the circumstances, there is insufficient credible evidence to support a finding Petitioner caused his own homelessness, particularly where such a finding requires the imposition of a penalty.

For the foregoing reasons, I MODIFY the Initial Decision and AFFIRM the Agency determination.

AUG 14 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director