



*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*

Elizabeth Connolly  
*Acting Commissioner*

Natasha Johnson  
*Director*  
Tel. (609) 588-2400

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 19444-15 L.B.

AGENCY DKT. NO. C086827 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Agency's termination of her Emergency Assistance ("EA") in the form of shelter placement because her homelessness was not due to circumstances beyond her control. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 11, 2015, the Honorable Leland S. McGee, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 14, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on December 17, 2015.

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

In order to be EA eligible, the assistance unit must be 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. See N.J.A.C. 10:90-6.1(c). EA shall not be provided for a period of six months when an applicant "has caused his or her own homelessness, without good cause." See N.J.A.C. 10:90-6.1(c)(3).

The record reflects that Petitioner and her one-year old child have received two months of EA from the Agency in the form of shelter placement. See Initial Decision at 2. On October 14, 2015, Petitioner signed a document agreeing to comply with the shelter's rules and regulations, which also stated that any rules violation committed by her would result in her immediate termination from the shelter. See Exhibit R-3. Effective December 4, 2015, Petitioner was terminated from the shelter by letter to her from the shelter's Case Manager Supervisor dated December 3, 2015. See Initial Decision at 2; see also Exhibit R-4. The termination letter states that on November 25, 2015, Petitioner threatened the shelter's staff with a knife. See Exhibit R-4. As a result, on December 3, 2015, the Agency terminated Petitioner's EA, and imposed a six-month period of EA ineligibility upon her, because she was not homeless due to circumstances beyond her control, for which she had no opportunity to plan. See Initial Decision at 2; see also Exhibit R-2.

In his Initial Decision, the ALJ found that, despite the December 3, 2015, termination letter from the shelter, the Agency provided insufficient evidence to support the basis for its termination of Petitioner's EA. See Initial Decision at 3. The ALJ noted that, although the Agency had a witness scheduled to appear at the hearing, the witness failed to appear because of car trouble on the way to the hearing. *Ibid.* As a result, the ALJ concluded, and I concur, that the Agency did not meet its burden of proof concerning the alleged incident that caused Petitioner's termination from the shelter. See Initial Decision at 4. Moreover, I find that, because the letter regarding the alleged incident that occurred on November 25, 2015, was prepared on December 3, 2015, it does not constitute an exception to the hearsay rule because it is not a business record made contemporaneously with the occurrence of the event. See N.J. Evidence R. 803(c)(6). On that basis, I adopt the ALJ's Initial Decision and find that the Agency's termination of Petitioner's EA was improper and should be reversed.

I have reviewed the Exceptions filed by the Agency, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby ADOPTED and the Agency's action is hereby REVERSED.

*Signed Copy on File*

at DFD, BARA

**DEC 28 2015**

\_\_\_\_\_  
Natasha Johnson

Director