



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 16269-15 N.R.

AGENCY DKT. NO. C443761 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she exhausted her lifetime limit of EA benefits plus all available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 20, 2015, the Honorable Tiffany M. Williams, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 21, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

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.

EA benefits are limited to 12 lifetime cumulative months, see N.J.A.C. 10:90-6.4(a), plus limited extensions for an "extreme hardship." A Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient may qualify for two six-month EA extensions if the Agency determines that a case of extreme hardship exists pursuant to N.J.A.C. 10:90-6.4(b)(1). See N.J.A.C. 10:90-6.4(d). Thus the maximum amount of EA benefits that a WFNJ/TANF cash recipient may receive is 24 months.

Here, the record clearly shows that Petitioner has received 25 months of EA benefits which included two-six month extreme hardship extensions. See Initial Decision at 3; see also Exhibit R-2. Consequently, the Agency terminated Petitioner's EA benefits, with her last EA benefit being provided on September 1, 2015. Ibid.

However, based on Petitioner's testimony alone, the ALJ found that Petitioner notified the landlord, the Agency, and the local regulatory authorities about an alleged severe and ongoing pest infestation in her apartment, but to no avail. See Initial Decision at 3, 4. Additionally, the ALJ found as credible, Petitioner's testimony that she withheld her rent because of the pest infestation, and that she ultimately prevailed in landlord tenant court. Id. at 3. Based on the foregoing, the ALJ reversed the Agency's termination of Petitioner's EA benefits, concluding that the Agency had not taken proactive steps to assist Petitioner in transferring her EA benefits to a habitable apartment, and, therefore, she should be credited EA benefits for the months that she remained in the apartment while it was infested. Id. at 4. I respectfully disagree, for the reasons set forth below.

Particularly, I do not find Petitioner's testimony credible, especially without any substantiating documentation. Specifically, Petitioner could not have been withholding her rent because the record clearly shows that the Agency was paying its portion of the rent (\$1,003) directly to the landlord, as well as taking Petitioner's contribution toward her rent (\$97) directly out of her WFNJ/TANF monthly benefit, and paying it directly to the landlord. See Exhibit R-2. Moreover, Petitioner failed to provide any evidence to prove that she sued, and prevailed against her landlord because of the alleged pest infestation. Additionally, Petitioner does not indicate, or provide any proof as to when she notified the Agency about the alleged pest infestation. Rather, the only documentation notifying the Agency of any pest infestation is from the Division of Child Protection & Permanency ("DCP&P), f/k/a DYFS, in a letter dated September 24, 2015. See Exhibit "DCP&P Letter." Furthermore, as the Agency was directly providing Petitioner's landlord with the monthly rental payment, I find it incredible that the Agency would continue to make monthly rental payments on an uninhabitable apartment, if they were indeed notified of same. Based upon the foregoing, I reject the ALJ's findings of fact as to the credibility of Petitioner and her testimony because they are not supported by sufficient and competent evidence in the record. See N.J.A.C. 1:1-18.6(c). To the contrary, as discussed above, the record clearly refutes Petitioner's testimony.

As such, I find that Petitioner has exhausted her lifetime limit of EA benefits, plus all available extensions, and find no good cause for crediting any EA benefits to Petitioner. Therefore, I find that the Agency properly terminated Petitioner's EA benefits.

As it appears from the record that the Petitioner may have an open DCP&P, a copy of the Initial and Final Decisions shall be forwarded to DCP&P to ensure the health, safety, and welfare of Petitioner's children.

By way of comment, because the record indicates that the Petitioner was previously a victim of domestic violence, and it is unclear whether Petitioner has recently received a Family Violence Option risk assessment ("FVO risk assessment"), the Agency shall refer the Petitioner for a FVO risk assessment in accordance with N.J.A.C. 10:90-20.1 et seq.

By way of further comment, the agency shall refer the Petitioner to the Social Services for the Homeless and any other programs or agencies which may assist her with her housing needs.

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

Signed Copy on File
at DFD, BARA

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Natasha Johnson
Director