



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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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 4691-15 R.B.

AGENCY DKT. NO. C046059 (CAPE MAY COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's ("Agency") denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's application for EA benefits in Cape May County because the Agency determined Petitioner voluntarily left her housing in Atlantic County with no plan for future housing. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 16, 2015, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On April 17, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action. The ALJ concluded that since Petitioner was Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") eligible; Petitioner was stranded in Cape May County; and, Petitioner exhausted all funds prior to applying for EA, she should be entitled to EA benefits from Cape May County.

Exceptions were filed to the Initial Decision by the Agency on April 21, 2015. The Agency included documents with its Exceptions which were not introduced before the ALJ at the hearing. Specifically, copies of the Cape May County Temporary Shelter Household Composition records for February 13, 2015, through March 7, 2015.

As the Director of the Division of Family Development, Department of Human Services, I reviewed the ALJ's Initial Decision, filed Exceptions, and after making an independent review of the record, I hereby REJECT the ALJ's Initial Decision and REMAND the matter to the Agency for EA evaluation.

As noted above, the ALJ reasoned that since Petitioner was undisputedly WFNJ/TANF eligible in Atlantic County, she should be entitled to EA benefits in Cape May County considering the transfer of her benefits from Atlantic County to Cape May County did not render her WFNJ/TANF ineligible. See Initial Decision at 4. Moreover, the ALJ determined Petitioner's relocation to Cape May County was not intentional, instead, Petitioner was stranded in Cape May County as a result of her car breaking down. Ibid. The ALJ further determined that since Petitioner had exhausted all available funds prior to applying for EA benefits, Petitioner was eligible for EA benefits from Cape May County.

The Agency has now submitted, via its Exceptions, print-outs dated April 21, 2015 from the Cape May County homeless shelter that appear to contradict Petitioner's recitation of the facts regarding her exhaustion of funds during February and March 2015. See Exceptions at 5-7. Specifically, the print-outs from April 21, 2015 confirm Petitioner, her boyfriend, and son stayed at the Cape May County homeless shelter 16 nights during this same period Petitioner states she paid for a motel. As such, this print-out could result in a different conclusion.

Additionally, there appear to be inconsistencies in the record regarding Petitioner's testimony that she was living in her car in Atlantic County. Specifically, Petitioner's WFNJ/TANF benefit printout lists an Atlantic County apartment as her mailing address. See R-1 at 31. Furthermore, the record appears to indicate that the Petitioner lost a job in December 2014. See Petitioner's correspondence at R-1 at 24.

Finally, the sequence of events regarding the conclusion Petitioner was stranded in Cape May County is not supported by the record. Instead, Petitioner admits she drove to Cape May County to retrieve her son; she paid for her stay at a motel in Cape May County with the funds from her tax return; and, only after her car broke down, Petitioner relied upon the funds from scrapping her car to pay for an additional week's stay at the same hotel. See Exhibit R-1 at 24. Thus, Petitioner's car breaking-down was not the reason that the Petitioner took residence in Cape May County, instead the facts establish that there was an unforeseen event after Petitioner had already begun paying for her stay in Cape May County.

By way of comment, Petitioner did not submit receipts to confirm the date she began staying at the motel in Cape May County; the date her car broke-down; the date Petitioner received payment for her scrapped car; or, the date Petitioner retrieved her son from her father's home.

Since I am not permitted to consider documents as evidence that were not submitted at the hearing for consideration by the ALJ, these factual discrepancies must be considered by the Agency which is the basis for this Remand. See N.J.A.C. 1:1-18.4(c).

Accordingly, based upon the foregoing, the Initial Decision is hereby REJECTED and this matter is REMANDED to the Agency on an expedited basis for a complete EA evaluation. The Agency shall address Petitioner's immediate need pending a determination on her EA application. Additionally, based upon the foregoing, Petitioner is directed to provide copies of all relevant documents at the EA evaluation, in particular, clarification as to the address she provided on her WFNJ/TANF application made in Atlantic County; any paystubs or proof of income from the job that she indicates she lost in December 2014; proof of payment to the motel in Cape May County; proof of the date she retrieved her son from her father's home; copy of Petitioner's tax refund; and, the date Petitioner's car broke-down, including the amount of money Petitioner received when the car was scrapped.

As such, the Initial Decision is hereby REJECTED and this matter REMANDED to the Agency for an EA evaluation.

MAY 18 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director