



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 11916-15 S.F.

AGENCY DKT. NO. C294310 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") because she had a realistic capacity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 18, 2015, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 19, 2015, the ALJ issued her Initial Decision affirming the Agency determination.

No Exceptions to the Initial Decision were filed.

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 AFFIRM 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). However, 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).

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The record reflects that the Petitioner and her six-month old child lived with Petitioner's mother until July 1, 2015, at which time Petitioner's mother insisted that they leave due to lack of space. See Initial Decision at 1; see also Exhibit P-1. Thereafter, Petitioner and her child lived with her sister until July 23, 2015, when they were asked to leave because her sister is pregnant and there was not enough room for everyone. See Initial Decision at 2; see also Exhibit P-2. Petitioner then applied to the Agency for EA/TRA, and her application was denied on July 29, 2015. See Initial Decision at 2. The Agency denied Petitioner EA/TRA because, while staying with her mother, Petitioner had a realistic capacity to plan for alternate housing in advance of the birth of her child, but she failed to do so. See Initial Decision at 2.

In her Initial Decision, the ALJ found that Petitioner had the realistic capacity to plan in advance for alternate housing during the nine months of her pregnancy, but she made no plans. See Initial Decision at 4. Further, the ALJ found Petitioner's testimony incredible when she stated that she did not know her mother would kick her out, and that her mother's action took her by surprise. *Ibid.* On that basis, the ALJ concluded, and I concur, that the Agency's denial of EA/TRA to Petitioner was warranted. See Initial Decision at 7. However, I disagree with the ALJ's finding that, notwithstanding the foregoing, the Agency should "assist Petitioner with EA/TRA in whatever form [the Agency] deems best for the family." *Ibid.* Rather, I hereby modify the ALJ's decision to reflect that the Agency's denial of EA/TRA to Petitioner was proper and must be affirmed.

By way of comment, the Agency shall refer the Petitioner to any other programs or agencies which may assist her with her housing needs.

By way of further comment, in accordance with the ALJ's instructions, a copy of the Initial and Final Decisions in this matter will be sent to the Division of Child Protection and Permanency ("DCP&P"), f/k/a the Division of Youth and Family Services ("DYFS"), to ensure that the health, safety, and welfare of Petitioner's infant is protected.

Accordingly, the Initial Decision is hereby MODIFIED and the Agency determination is hereby AFFIRMED.

Signed Copy on File
at DFD, BARA

AUG 28 2015

Natasha Johnson
Director