



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 15812-15 S.J.

AGENCY DKT. NO. C150303 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits contending that she had to realistic capacity to plan in advance to avoid her imminent homelessness, but failed to do so. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 4, 2015, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 5, 2015, the ALJ issued an Initial Decision, reversing the Agency's determination.

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 ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent part, that the individual must have "an actual or imminent eviction from prior housing, and 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."

Here, the record shows that Petitioner left her prior residence and moved to New Jersey, due to domestic violence. See Initial Decision at 2-3. However, the Agency

contended that because Petitioner's WFNJ Family Violence Option Risk Assessment Referral/Report ("FVO") dated September 22, 2015, indicated that there was no current domestic violence that she therefore, had the capacity to plan for her future housing needs. Id. at 5; see also Exhibit R-1 at 1. Rather, I find that because Petitioner left her prior residence due to domestic violence, she did not have time to plan in advance to avoid her emergent situation. See N.J.A.C. 10:90-6.1(c)(1)(i). Moreover, Petitioner's FVO was completed on September 22, 2015, which was after she had left her prior housing, and cannot therefore, be the basis for the Agency's denial. Id. at 3, 4.

I note that while I agree with the ALJ's final conclusion, I find that Petitioner lacked the capacity to plan in advance to avoid her emergent situation, and therefore, did not cause her own homelessness. See Initial Decision at 5. As such, N.J.A.C. 10:90-15.1 need not be considered here, as Petitioner had not caused her own homelessness. See Initial Decision at 5.

By way of comment, Petitioner is advised that the Agency shall determine the most appropriate form of EA benefits that are required to address her needs, including shelter placement. See N.J.A.C. 10:90-6.3(a)(1).

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

Signed Copy on File
at DFD, BARA

NOV 23 2015

Natasha Johnson
Director