



State of New Jersey

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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

REMAND DECISION

OAL DKT. NO. HPW 9502-14 T.B.

AGENCY DKT. NO. GA561785 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from Respondent Agency's denial of her application for Emergency Assistance ("EA"). The Agency denied EA as it contended that Petitioner had caused her own homelessness as a result of an eviction from subsidized housing due to drug and weapons charges. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 4, 2014, the Honorable Ellen S. Bass, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence.

On August 4, 2014, the ALJ issued her Initial Decision, reversing the Agency's determination. The ALJ opined that Petitioner had unfairly lost her Section 8 housing due to actions of her minor son, not herself, and that Petitioner anticipated the charges against her would be dropped. See Initial Decision at 3-4. The ALJ concluded that Petitioner should be granted EA in form of shelter placement, and if she had a promise of employment, the Agency was to provide EA in the form of security deposit and one month rent. See *id.* at 4.

Neither party filed exceptions to the Initial Decision.

As the Director of the Department of Human Services, Division of Family Development, 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 REJECT the Initial Decision of the ALJ and REMAND this matter to the Agency for further clarification.

The purpose of EA is to meet the emergent needs, such as imminent homelessness, of public assistance recipients and SSI applicant/recipients. See N.J.A.C. 10:90-6.1(a). 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." Documentation must be presented to the Agency demonstrating that an eviction is pending or has occurred. N.J.A.C. 10:90-6.3(a)(1)(ii). However, if the benefits recipient caused their own homelessness, as a result of "eviction from public and/or subsidized housing for nonpayment of rent ... [or] because of criminal activity," EA shall not be provided for a period of six months. See N.J.A.C. 10:90-6.1(c)(3)(ii) and (iii).

The record in this matter reveals that Petitioner was terminated from her Section 8 housing after the arrest of herself, and her minor son, on April 6, 2014, for a number of charges including Unlawful Possession of a Firearm and Possession of a Controlled Dangerous Substance ("CDS") near a school with Intent to Distribute/Dispense. See Exhibit R-1 at 6. Petitioner contends that it was her minor son who was the target of the arrest and she herself had not engaged in the alleged criminal activity. See *id.* at 7; see also Initial Decision at 3, para. 8. The record further shows that Petitioner was advised of the Housing Authority's "One Strike" policy, but was also informed that if the charges against her were dropped, she could ask to be reinstated with Section 8. See Exhibit R-1 at 7. The record further leads to the conclusion that once Petitioner was terminated from Section 8, she was unable to pay her rent, and thereafter was evicted. See Exhibit R-2.

I disagree with the determination of the ALJ in this matter. Our regulations are clear that if a benefits recipient is evicted from subsidized housing for non-payment of rent, or for criminal activity, they are precluded from receiving EA for a period of six months. See N.J.A.C. 10:90-6.1(c)(3)(i) and (iii).

However, our regulations further state, "In consultation with DYFS [now the Division of Child Protection and Permanency ("DCP&P")], EA shall be provided to a DYFS family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements." N.J.A.C. 10:90-6.1(c)(6). The ALJ in this matter indicates that Petitioner's children are presently in the custody of Petitioner's mother and Petitioner anticipates their return through DCP&P in September. See Initial Decision at 4; see also Exhibit R-3. There is nothing in the record, however, to substantiate Petitioner's assertion. As I have found that Petitioner has caused her homelessness, if there is indeed an open DCP&P case involving Petitioner and her children, she may be eligible for EA in accordance with the aforementioned regulation. Accordingly, I am remanding this matter back to the Agency for further consideration, in consultation with DCP&P.

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Based upon the foregoing, the Initial Decision in this matter is REJECTED, and the matter is REMANDED back to the Agency for further determination as outlined above.

AUG 18 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director