



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

REMAND DECISION

OAL DKT. NO. HPW 12127-14 D.S.

AGENCY DKT. NO. C168487 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from Respondent Agency's denial of her request for Emergency Assistance ("EA") in the form of retroactive utility payments. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 26, 2014, the Honorable Sandra Ann Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence.

On September 29, 2014, the ALJ issued her Initial Decision affirming the Agency's determination, but ordering that the Agency assist Petitioner with requesting an investigation and inspection of the utility costs from the utility company, and after such investigation and inspection, for the Agency to work with Petitioner to develop and implement a Service Plan and Individual Responsibility Plan, if appropriate. See Initial Decision at 5-7. The ALJ further ordered that if Petitioner were to obtain funds from family or elsewhere to immediately pay the substantial arrears balance on the utilities, all but six months "that Respondent should assist Petitioner with contributing towards the reduction of the remaining balance" should be paid. See *id.* at 7.

No exceptions were filed to the Initial Decision.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record and the ALJ's Initial Decision, and I hereby ADOPT the Initial Decision in part, and REJECT in part. I am also remanding this matter to the Agency for further investigation and handling.

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The purpose of EA is to meet the emergent needs, such as imminent homelessness, of public assistance and Supplemental Security Income ("SSI") applicants/recipients. See N.J.A.C. 10:90-6.1(a). When there is no other source of support available, EA may be authorized for six months of retroactive utility payments in order to prevent the loss of utilities or make utilities operable. See N.J.A.C. 10:90-6.1 and -6.3(a)(5). On the other hand, EA is not available when the assistance unit has a realistic capacity to plan in advance. See N.J.A.C. 10:90-6.1(c).

In conducting an independent review of the record, I note that there are discrepancies which need to be clarified before the Agency can consider payment towards any portion of the substantial utilities arrears in this matter. The Initial Decision states that Petitioner resides on the 2nd floor of the building in question, while Petitioner's mother resides on the 1st floor. See Initial Decision at 3-4, paras. 2 and 5. Yet documentation submitted by the Agency into evidence at the hearing, specifically documentation from the utility company, reflects Petitioner's name in association with the 1st floor apartment. See Exhibit R-2. It is unclear if the utility bill encompasses charges for both floors, or just one, and if Petitioner's name was on the utility bill at all times in question. The credible evidence in the record further shows that the building in question is owned by Petitioner's parents. See Initial Decision at 4, para. 4; see also Exhibit R-1. Additionally, while Petitioner testified that she left the apartment in June 2011, Respondent's research suggests that Petitioner was residing there until July 2012. See Initial Decision at 4-5, paras. 6, 18. Finally, a handwritten notation on Exhibit R-3 states, "Client is not receiving cash any more, exhausted 18 months of EA," which is in contradiction to the ALJ's finding that Petitioner is a Work First New Jersey/Temporary Assistance for Needy Families benefits recipient who is in compliance with program requirements. See Initial Decision at 5, para. 17.

Based upon the foregoing, I hereby ADOPT the ALJ's Initial Decision as to the affirmance of the Agency's initial determination to deny EA benefits in this matter. I REJECT the remaining provisions ordered by the ALJ, and REMAND this case to the Agency to investigate and clarify not only the accuracy of the utility costs, as discussed in the Initial Decision, but also the other discrepancies discussed above which could ultimately affect Petitioner's eligibility for receipt of EA in this matter.

Signed Copy on File
at DFD, BARA

OCT 22 2014

Jeanette Page-Hawkins
Director