



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 8764-14 M.R.

AGENCY DKT. NO. C371081 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 7, 2014, the Honorable Richard McGill, Administrative Law Judge ("ALJ"), held a hearing, took testimony and admitted documents. On August 12, 2014, the ALJ issued an Initial Decision which reversed the Agency determination.

Neither party submitted exceptions.

As the Director of the Division of Family Development, Department of Human Services, I independently reviewed the record and hereby ADOPT the Initial Decision and REVERSE the Agency determination.

Petitioner receives Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits, and Supplemental Security Income ("SSI") and Retirement, Survivors and Disability Insurance ("RSDI") benefits, the countable total of which is less than her rent.

The Agency deferred determination of Petitioner's application for EA pending submission of a completed Med-1 form. The Agency denied EA the same day Petitioner submitted the completed Med-1, the latter document untimely because Petitioner could not immediately schedule an appointment with her treating physician.

Receipt of EA is contingent upon the recipient taking reasonable steps towards resolving the emergent situation. Reasonable steps include, but are not limited to following Agency recommendations. N.J.A.C. 10:90-6.6(a). EA shall not be provided for a period of 6 months when "an adult EA applicant or recipient has caused his or her own homelessness, without good cause." N.J.A.C. 10:90-6.1(c)(3).

The ALJ found the Agency had no reason to ask for a Med-1 form from an applicant who was already an SSI recipient, and by implication no basis to impose a 6-month penalty. Because the Agency action was based solely upon Petitioner's untimely submission of an unnecessary Med-1 form, the ALJ appropriately reversed the denial of EA, rescinded the penalty and remanded the matter to the Agency to evaluate Petitioner's application for EA under N.J.A.C. 10:90-6.1.

I offer the following guidance to enable Petitioner to if necessary supplement the application for EA, and to facilitate a timely evaluation by the Agency.

EA is available to SSI recipients. N.J.A.C. 10:90-6.1(a).

EA is indicated when "shelter costs equal or exceed total recorded income to the [Work First New Jersey] or SSI assistance unit and the recipient is unable to document other sources of income." N.J.A.C. 10:90-6.1(a)(1).

EA is available where 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." N.J.A.C. 10:90-6.1(c).

A lack of a realistic capacity to plan exists when the applicant can document available funds were exhausted on items deemed "appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii).

"A pending eviction or foreclosure must be documented, either through a tenancy complaint filed by the landlord or an order from a court for an eviction or foreclosure. Where such documentation does not exist, a letter from a landlord or other person serving in such capacity ..., subject to agency verification, stating that eviction is imminent or has occurred shall be accepted by the agency." N.J.A.C. 10:906.3(a)(1)(ii).

Under the totality of the circumstances, the fact Petitioner's rent is four months in arrears does not bar the grant of retroactive temporary rental assistance if Petitioner is otherwise eligible for EA and the placement is appropriate. N.J.A.C. 10:90-6.3(a)(5); -6.3(a)(1).

For the foregoing reasons, I ADOPT the Initial Decision and REVERSE the Agency determination.

SEP 30 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director