



State of New Jersey

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NATASHA JOHNSON
Director

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 09661-18 J.P.

AGENCY DKT. NO. C070979006 (CUMBERLAND COUNTY BD OF SOC SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of temporary rental assistance ("TRA") and back rent. The Agency denied Petitioner EA/TRA benefits contending that she had the realistic capacity to plan in advance to avoid her housing emergency, but failed to do so; and that she failed to provide all required documentation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 11, 2018, the Honorable Dorothy Incarvito-Garrabrant, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On July 13, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on July 13, 2018, and by Petitioner on July 19, 2018.

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 hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination.

Here, the record reflects that on June 8, 2018, Petitioner applied for EA/TRA benefits and back rent when she fell two months behind in her rental payments. See Initial Decision at 3; see also Exhibit R-1 at 16-23. On that same date, an eviction action was filed against Petitioner. See Initial Decision at 7. Petitioner's monthly rent is \$707, and she owes back rent for the months of June, and July, 2018. *Id.* at 3. The Agency denied Petitioner EA benefits contending that she failed to provide certain required documentation, and that she had sufficient funds from a federal income tax refund to pay her rent but failed to do so. *Ibid.*; see also Exhibit R-1 at 4-5, and N.J.A.C. 10:90-6.1(c)(1), (2), (3)(v). However, the ALJ found that Petitioner had provided the Agency with its requested documentation, and that the Agency had failed to provide any evidence to the contrary; that Petitioner had spent her income tax refund on necessary and reasonable items, including rent, leaving her with insufficient funds to pay the back rent; and that Petitioner had provided the Agency with documentary proof of those expenses. See Initial Decision at 9-12; see also Exhibit R-1 at 27-63. Further, based on Petitioner's education, past work history; temporary absence from employment, due to complications surrounding her pregnancy; and the fact that she is scheduled to resume full time employment in August 2018, the ALJ found that Petitioner's rent is affordable going forward. See Initial Decision at 5, 9-12; see also N.J.A.C. 10:90-6.3(a)(6).

Based on the documentary and testimonial evidence, the ALJ concluded that Petitioner provided all of the documentation requested by the Agency, and that she took reasonable actions to prevent her homelessness. *Id.* at 13-14; see also N.J.A.C. 10:90-6.1(c)(1), -6.1(c)(2). The ALJ further concluded that the Agency's denial of Petitioner's application for EA/TRA benefits was inappropriate and must be reversed, and that EA/TRA benefits should be provided to Petitioner for the payment of back rent as well as prospective EA/TRA benefits, until such time as she begins receiving wages from her new employment. See Initial Decision at 14; see also Exhibit R-1 at 4-5, and N.J.A.C. 10:90-6.1(c).



While I agree with the ALJ's finding that Petitioner is to be provided with EA/TRA benefits in the form of back rent, I find that Petitioner is only eligible for prospective EA benefits provided that she continues to need such benefits, and continues to be otherwise eligible for same, in accordance with N.J.A.C. 10:90-6.1, et seq. The Initial Decision is modified reflect this.

By way of comment, I have reviewed Petitioner's and the Agency Exceptions, and I find that the arguments made therein do not alter my decision in this matter. Moreover, Petitioner included documents with her Exceptions which were not introduced before the ALJ at the hearing. I am not permitted to consider documents as evidence that were not submitted at the hearing for consideration by the ALJ. See N.J.A.C. 1:1-18.4(c).

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is REVERSED.

Officially approved final version. **JUL 25 2018**

Natasha Johnson

Director

