



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Assistant Commissioner

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 09368-19 S.V.

AGENCY DKT. NO. C266019007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") and a furniture voucher. The Agency denied Petitioner EA/TRA benefits, contending that the apartment that she had secured did not pass the Agency's inspection for habitability. Consequently, the Agency denied a furniture voucher to Petitioner because EA/TRA benefits had been denied. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. Beginning August 1, 2019, and completed on September 9, 2019, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 17, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on October 1, 2019.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination.

Here, the record reflects that Petitioner located a one-bedroom apartment for \$750 per month, as required by the Agency, which was well below the Fair Market Rent ("FMR") of \$1,188 for Essex County. See Initial Decision at 2; see also DFD Instruction ("DFDI") No. 18-09-04. By notice dated May 22, 2019, Petitioner was approved for EA benefits in the form of a security deposit, prorated first month's rent for May 2019, and prospective EA/TRA benefits beginning June 1, 2019. See Initial Decision at 4; see also Exhibit P-1. Petitioner was advised by the Agency that she could move into the apartment immediately, and a lease agreement was entered into by Petitioner on May 23, 2019. See Initial Decision at 4; see also Exhibit R-1 at 72-78. However, soon after Petitioner had moved into the apartment, the Agency notified her that receipt of her EA benefits was pending a housing inspection by the Agency. See Initial Decision at 2-3; see also Exhibit P-3. Some time later, an inspection was conducted, and the apartment was determined to be uninhabitable on the basis that the "one-bedroom apartment" was a one-family dwelling being rented out as a two-family dwelling, with no stand-alone units, and without code approval. See Initial Decision at 3-4; see also Exhibits R-1 at 1-4, R-2. The



Agency has acknowledged that, at the time it approved Petitioner for EA benefits and advised her to move into the apartment at issue, it had not mentioned to her that an inspection of the property was required for receipt of said benefits. See Initial Decision at 2-3. Nevertheless, on June 20, 2019, the Agency denied EA benefits to Petitioner because her apartment had failed inspection. *Id.* at 4; see also Exhibit P-5. During the pendency of said inspection, the Agency had not paid Petitioner's security deposit, first month's rent, or any monthly rent thereafter. See Initial Decision at 4. As a result, Petitioner is facing an imminent eviction. *Ibid.*

The ALJ concluded that the Agency had initially approved Petitioner for EA benefits in the form of a security deposit and monthly rental assistance, without receipt of said benefits being conditioned upon a housing inspection, which approval Petitioner and her landlord had relied upon. *Id.* at 5; see also Exhibit P-1. The ALJ also concluded the Agency's mistaken approval of EA benefits may have been innocent, but nonetheless, its failure to provide Petitioner with rental assistance may result in Petitioner becoming homeless, through no fault of her own. See Initial Decision at 5. Of note, the record reflects that the Agency acknowledges that Petitioner is unable to reside in a shelter placement due to her age and particular medical conditions. *Id.* at 4; see also Exhibit R-1 at 28-29. Finally, the ALJ concluded that, because there is insufficient time for Petitioner to locate another one-bedroom apartment, and because the landlord is willing to take steps to convert the property into a two-family dwelling, Petitioner should be permitted to remain at the premises. See Initial Decision at 5. Based on the foregoing, the ALJ reversed the Agency's denial of EA benefits to Petitioner and directed the Agency to provide Petitioner with a security deposit, prorated rent in the amount of \$238 for the month of May 2019, retroactive rent for the months of June, July, and August 2019, as well as prospective rental payments through December 2019, which should allow the landlord time to address the housing issue, and/or for the Agency to assist Petitioner in securing alternate housing. *Id.* at 5-6.; see also Exhibit P-4, and N.J.A.C. 10:90-6.1(c). I agree.

Additionally, the record reflects that on June 20, 2019, the Agency had denied Petitioner's application for a furniture voucher, which denial was not addressed by the ALJ in the Initial Decision. See Initial Decision at 2; see also Exhibits P-5, R-1 at 32. However, due to the passage of time, it is unclear whether or not Petitioner still requires a furniture voucher. Therefore, I direct the Agency to reevaluate Petitioner's eligibility for a furniture voucher. See N.J.A.C. 10:90-6.3(a). Petitioner is advised that should the Agency deny her request for a furniture voucher, she may request another fair hearing on that issue, alone.

By way of comment, Petitioner is advised that she should continue to search for affordable housing in order to avoid homelessness should the landlord be unable to resolve the subject housing issue. See Initial Decision at 3; see also Exhibit R-2.

By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

Natasha Johnson
Assistant Commissioner

NOV 01 2019

