



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 00979-19 T.T.

AGENCY DKT. NO. C743595007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits contending that her apartment was determined to be uninhabitable. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 22, 2019, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents, and the record then closed:

On January 23, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record shows that in a prior Final Agency Decision ("FAD"), dated October 18, 2018, this office directed the Agency to pay Petitioner's back rent for the months of July, August, and September 2018, and to provide her with prospective EA benefits, so long as she remains otherwise eligible for same. See Initial Decision at 2; see also Exhibit P-3. Based on the directive in that FAD, it is unclear why the Agency instructed Petitioner to reapply for EA benefits. *Ibid.* Nevertheless, the record indicates that: Petitioner reapplied for EA benefits; the Agency ordered an inspection of her apartment on November 20, 2018; the apartment, after a few repairs were made by the landlord, passed inspection; and by notice dated November 28, 2018, the Agency approved Petitioner for EA benefits, effective October 1, 2018, through March 31, 2019. See Initial Decision at 3-4; see also Exhibits R-1, R-4. However, without explanation, on November 30, 2018, the Agency ordered another inspection of Petitioner's apartment, at which time the apartment was deemed "uninhabitable," and by notice dated December 4, 2018, the Agency denied Petitioner's application for EA benefits. See Initial Decision at 3-4; see also Exhibits R-2, R-3. Of note, there is no explanation in, or documentation attached to, the November 30, 2018, inspection report indicating why Petitioner's apartment was determined to be "uninhabitable." See Exhibit R-3.

Weighing the testimony and credibility of both parties, the ALJ found Petitioner and her husband credible when they testified, in detail, about the inspections conducted and the repairs made by the landlord in connection thereto. See Initial Decision at 4-6. Moreover, the ALJ found that Petitioner's testimony concerning the first inspection and approval was corroborated by the Agency's notes admitted into the record. *Id.* at 5; see also Exhibit R-4. With respect to the Agency, the ALJ found that the Agency had failed to present evidence to establish by a preponderance of the evidence: 1) why there was a need for a second inspection; and 2) why the apartment was not approved for habitability. See Initial Decision at 5. Further, the ALJ found that, nevertheless, even if habitability were an issue, the Agency failed to assist Petitioner in securing another apartment prior to its denial of EA benefits. *Id.* at 6; see also N.J.A.C. 10:90-6.6(a). Accordingly, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 5-6; see also Exhibit R-2, and N.J.A.C. 10:90-6.1. I agree.



Exceptions to the Initial Decision were filed by the Agency on January 24, 2019, which included documents that were not submitted at the time of the hearing.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, I have reviewed the Agency's Exceptions, and find that the arguments made therein do not alter my decision in this matter. The Agency is also reminded that evidence not presented at the hearing shall not be submitted as part of an Exception, or referred to in an Exception. See N.J.A.C. 1:1-18.4(c). Further, the Agency is reminded of its responsibilities in representation and presentation of a matter at a plenary hearing before an ALJ, pursuant to N.J.A.C. 10:90-9.12(b), which states, "[t]he county or municipal representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action."

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

Officially approved final version.

JAN 28 2019

Natasha Johnson
Director

