



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 05042-20 A.R.

AGENCY DKT. NO. C023478017 (SALEM COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") for payment of back rent. The Agency denied Petitioner EA/TRA benefits, contending that she had sufficient income to pay her rent; that she was seeking more than three-months back rent; and that she had exhausted her lifetime limit of EA benefits and did not qualify for an extension of those benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A telephonic plenary hearing was initially scheduled for July 6, 2020, but was adjourned to July 16, 2020, at the request of Petitioner. Petitioner then requested a second adjournment and the hearing was again rescheduled. On July 23, 2020, the Honorable Tama B. Hughes, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On August 3, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, 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 AFFIRM the Agency's determination, based on the discussion below.

Here, the record reflects that, at the time Petitioner applied for EA/TRA benefits in the form of back rent, she was already four months behind in her rent, and regulatory authority only allows for the payment of three-months back rent unless extraordinary circumstances are proven. See Initial Decision at 2-3, 8-10; see also Exhibits R-1 at 13-21, R-2 at 6 and N.J.A.C. 10:90-6.3(a)(5)(i). Of note, at the time of the Agency's denial of EA/TRA benefits, Petitioner was five months behind in her rent. See Initial Decision at 3; see also Exhibit R-2 at 6. The ALJ also found that Petitioner had failed to provide credible evidence showing that extraordinary circumstances existed such that the three-month EA/TRA limit for the payment of back rent could be expanded. *Id.* at 10. On those bases, the ALJ concluded that the Agency's denial of EA/TRA benefits to Petitioner was proper. *Id.* at 10, 13; see also Exhibit R-1 at 1-5. I agree.



Also, the record reflects that Petitioner's monthly rent is \$1,100, and that her household income in the months of November 2019, and December 2019, was \$2,029 and her monthly income in January 2020, and February 2020, was \$1,239. See Initial Decision at 2, 7-8; see also Exhibit R-1 at 18-21, 22-25. The ALJ found that Petitioner had sufficient income to pay her rent during those months, but failed to do so, and failed to show that she had made any attempt to make a partial rent payment, thereby causing her own emergent situation. See Initial Decision at 8. The ALJ also found that Petitioner had failed to provide the Agency with documentation on how she had spent her household funds during that time, and failed to provide any competent evidence at the hearing to show that she had spent her household funds to items deemed necessary for decent living. Id. at 5-8; see also Exhibits P-1 at 1-3, R-1 at 26-29, R-3 at 2-4. Further, the ALJ found that, based upon what Petitioner presented in her EA benefits application, she would not be able to maintain paying her rent going forward. See Initial Decision at 3-4; see also Exhibit R-1 at 9. Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was proper. See Initial Decision at 7-8, 12-13; see also Exhibit R-1 at 1-5, and N.J.A.C. 10:90-6.1(c)(3)(v). I agree. Of note, it appears that the Agency exercised its discretion and did not impose a six-month EA benefits ineligibility penalty upon Petitioner, although such penalty would have been appropriate pursuant to N.J.A.C. 10:90-6.1(c)(3). See Initial Decision at 12 n. 4.

Finally, the Agency denied Petitioner EA benefits, contending that she had exhausted her lifetime limit of EA benefits and did not qualify for an extension of those benefits. See Initial Decision at 3; see also Exhibit R-1 at 1-5, 36-48. However, at the time of the hearing, the ALJ found, and the Agency acknowledged that, but for the other EA benefits ineligibility factors, Petitioner would have been eligible for an extension of EA benefits in accordance with the seven-year disregard set forth in the recently promulgated State of New Jersey Senate Bill, No. S3586, P.L. 2019, c. 74, amending P.L. 1997, c. 14, effective April 30, 2019 ("S3586"), which provides, in part, that "all months of emergency assistance received more than 84 months from the date of application for emergency assistance shall not be counted toward the cumulative 12-month limit of emergency assistance." See Initial Decision at 3, 7; see also Exhibit R-1 at 30-35. Based on the conclusions made above, finding that the Agency's denial of EA benefits was proper, I find it unnecessary to address the exhaustion issue in this Final Agency Decision.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is AFFIRMED, as outline above.

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Officially approved final version.

Natasha Johnson
Assistant Commissioner

