



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 10427-23 E.V.

AGENCY DKT. NO. C093005018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's correctness in terminating her immediate need housing assistance. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 12, 2023, the Honorable Elaine B. Frick, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On October 13, 2023, 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 ("DFD"), 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 AFFIRM the Agency's determination, based on the discussion below.

N.J.A.C. 10:90-1.3(a) states, "All applicants for [Work First New Jersey] WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determined that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made," which is not to exceed 30 days. In relevant part, immediate need "means the assistance unit lacks shelter or is at imminent risk of losing shelter." See N.J.A.C. 10:90-1.3(a)(1); see also DFD Instruction (DFDI") No. 19-04-01. Of note, immediate need assistance is not EA, and the denial/termination of immediate need assistance is not appealable.

Only Work First New Jersey ("WFNJ") cash assistance recipients and Supplemental Security Income ("SSI") recipients are eligible for EA benefits. See N.J.A.C. 10:90-6.2(a).

In order to be eligible for EA benefits, the recipient must demonstrate that his/her shelter costs equal or exceed the total income available to his/her assistance unit. See N.J.A.C. 10:90-6.1(a)(1). As part of the determination of EA benefits eligibility, the Agency must evaluate all potential contributions of support to the household, including income received by ineligible household members, particularly when



determining the amount of temporary rental assistance. See N.J.A.C. 10:90-6.1(c)(2). Further, those individuals who reside with, but are not members of, the assistance unit, are responsible for paying their per capita/pro rata share of the housing costs. See DFDI No. 08-5-4 at 10-11.

Here, while I agree with the ALJ's ultimate conclusion, I find that the ALJ's legal analysis in this matter is misplaced. See Initial Decision at 9-11. Rather, based on an independent review of the record, I find that the applicable regulatory authorities in this matter are N.J.A.C. 10:90-1.3(a), -6.1(c)(2), and -6.2(a), as stated above. Accordingly, I make the following findings regarding the Agency's termination of Petitioner's immediate need housing benefits, as discussed below.

I find that Petitioner's household consists of herself, a Retirement, Survivors, Disability Insurance ("RSDI") benefits recipient, and three minor children, one of whom is an SSI benefits recipient, and as such, only that SSI child is eligible for EA benefits. The record reflects that Petitioner applied for EA benefits on September 7, 2023, and at that time the Agency provided Petitioner with immediate need fully-funded housing for a period of thirty days. See Initial Decision at 3-6; see also N.J.A.C. 10:90-1.3(a), and DFDI 19-04-01. The record also reflects that the Agency had advised Petitioner, that at the end of that thirty days, and on behalf of the SSI child, the Agency would continue to provide Petitioner with one-quarter of her current housing costs, with Petitioner being responsible for the remainder. See Initial Decision at 3-7; see also Exhibit R-2 at 11, 12. However, prior to any approval or denial of her EA benefits application, Petitioner appealed, seeking full payment of her housing costs going forward. See Initial Decision at 7-10; see also Exhibit R-2 at 10. Based on the testimony, documentary evidence provided, and applicable regulatory authority, I find that although Petitioner was not entitled to a fair hearing on this matter, such a hearing did take place, and as such, I find that the Agency's termination of Petitioner's fully-funded immediate need housing assistance was proper. See Initial Decision at 4-5, 10; see also N.J.A.C. 10:90-1.3(a), -6.1(c)(2), -6.2(a), and DFDI Nos. 08-5-4, and 19-04-01. Accordingly, I concur with the ALJ's ultimate conclusion that Petitioner, herself, is ineligible for EA benefits, that due to her child's SSI benefit status, her household of four is eligible for one-quarter of her total housing costs, that Petitioner was not entitled to a continuation of fully-funded immediate need shelter assistance, and that Petitioner's appeal, seeking continued immediate need assistance and/or EA benefits in the form of fully-funded household shelter payment costs is denied. See Initial Decision at 9-11. The Initial Decision is modified to reflect these findings.

By way of comment, as Petitioner has three minor children in her household, one being a Supplemental Security Income ("SSI") benefits recipient, she is a good candidate for the ICM/State Rental Assistance Program ("SRAP"), I hereby direct the Agency to refer Petitioner to the ICM program, on an expedited basis. See DFDI 17-01-01.

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

Officially approved final version.      October 24, 2023

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Natasha Johnson  
Assistant Commissioner

