



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 12906-14 A.R.

AGENCY DKT. NO. GA558507 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals Respondent Agency's denial of Emergency Assistance ("EA") benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 22, 2014, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence. On October 24, 2014, the ALJ closed the record after receiving and admitting additional documents into evidence. On October 27, 2014, the ALJ issued an Initial Decision which reversed the Agency determination and granted retroactive and prospective EA benefits in the form of Temporary Rental Assistance ("TRA").

Exceptions to the Initial Decision were filed by the Agency on November 24, 2014.

As the Director of the Division of Family Development, Department of Human Services, I reviewed the record and the ALJ's Initial Decision, and having made an independent evaluation of the record, I MODIFY the Initial Decision and REVERSE the Agency determination.

The Agency denied EA benefits and contends that it is authorized to determine the most appropriate form of EA benefits, and alternatively, that Petitioner is not imminently homeless. Initial Decision at 2; Exhibit R-1 at 1-4. The ALJ reversed the Agency determination, found that Petitioner's lease agreement with his parents was an arms' length transaction, and granted retroactive and prospective EA benefits in the form of TRA. Initial Decision at 2-4; Exhibit P-1 at 2-5.

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The purpose of EA is to meet the needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work related activities without disruption in order to continue on the path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA benefits can also be an appropriate form of assistance for Work First New Jersey ("WFNJ") recipients, such as Petitioner, who are unable to work. N.J.A.C. 10:90-6.1(b). Initial Decision at 2.

The ALJ found that, under the particular circumstances presented by this case, the lease agreement between Petitioner and his parents was an arm's length transaction. Initial Decision at 2-4. I agree. Furthermore, it is noted that the proposed rent amount in this agreement is one-third less than the rent amount customarily charged by Petitioner's parents and significantly less than the applicable Fair Market Rent ("FMR"). Initial Decision at 2; Exhibit P-1 at 5-15. Under the totality of the circumstances, the ALJ concluded Petitioner's proposed housing arrangement was the most appropriate form of EA benefits. Initial Decision at 3.

Notwithstanding the foregoing, imminent homelessness must be documented, either through a tenancy complaint filed by the landlord or an order from a court for eviction or foreclosure. N.J.A.C. 10:90-6.3(a)(1)(ii). "Where such documentation does not exist, a letter from a landlord or other such person serving in such capacity (relative/friend with whom the individual/family is residing), subject to agency verification, stating that eviction is imminent or has occurred shall be accepted by the agency." Ibid. The record in this matter does not include documentary evidence that Petitioner is imminently homeless, and the Initial Decision must therefore be modified to condition the grant of any EA benefits upon the submission of such documentation to the Agency.

In total, Petitioner is eligible for prospective EA benefits in the form of TRA, payable to his parents as landlords and conditioned upon the submission of document evidence of imminent homelessness, subject to applicable eligibility criteria.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein have been addressed in this decision based upon the evidence presented, and as such, do not alter my decision in this matter.

By way of further comment, the record in this matter suggests that the Agency considers Petitioner employable, notwithstanding a MED-1 form and a pending application for Supplemental Security Income ("SSI") benefits. Initial Decision at 2. Based upon the foregoing, I concur with the ALJ's recommendation that the Agency re-evaluate the amount of Petitioner's WFNJ/GA cash benefits, and make any necessary and appropriate adjustments. Ibid.

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

MAR 26 2015

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director