



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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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

REMAND DECISION

OAL DKT. NO. HPW 11912-15 B.D.

AGENCY DKT. NO. C222279 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits contending that she had the capacity to plan in advance to avoid her housing crisis back in March 2015. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 18, 2015, the Honorable Sandra A. Robinson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 19, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

No Exceptions to the Initial Decision were received.

As the Director of the 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, REVERSE the Agency's determination and REMAND to the Agency as discussed below.

In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent part, that the individual must have "an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing." Documentation must be presented to the Agency demonstrating that an eviction is pending or has occurred. N.J.A.C. 10:90-6.3(a)(1)(ii). Additionally, EA benefits shall not be provided for a period of six months when an applicant "has caused his or her own homelessness, without good cause." N.J.A.C. 10:90-6.1(c)(3).

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Pursuant to N.J.A.C. 10:90-6.1(c)(2), “[a]s part of the determination of eligibility, or continued eligibility for emergency assistance, the agency shall evaluate all potential contributions of support to the household, including income received by ineligible household members”

The Agency “shall determine” the most appropriate form of emergency housing required to address the needs of an EA recipient, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1).

In order to better clarify my decision in this matter, a brief history of Petitioner’s previous requests for EA benefits is necessary. According to the record, Petitioner first applied for EA benefits in November 2014, when her rent was five months in arrears, which was denied. See Initial Decision at 4. The record is silent, however, as to the precise reason for the denial. On February 5, 2015, when her rent was eight months in arrears, Petitioner again applied for EA benefits, but because she did not provide the Agency with proof of imminent or actual homelessness, and she was denied EA benefits. See Initial Decision at 2, 5. Then, on March 3, 2015, Petitioner provided the Agency with a Summons and Complaint for eviction. *Ibid.* Thereafter, the Agency attempted to reach an agreement with the landlord regarding the payment of past due rent; however, no agreement could be reached, and the Agency did not provide Petitioner with EA benefits. *Ibid.*

After a careful review of the record, it appears that Petitioner may have had sufficient income to pay her rent at the time of the EA application in November 2014, based upon receipt of Unemployment Insurance Benefits (“UIB”). See Initial Decision at 2; see also Exhibit R-2 at 1-3, 5-9. Additionally, it does not appear that Petitioner was imminently homeless at the times she applied in November 2014 or February 2015. See Initial Decision at 5.

The EA denial at issue here is the denial of Petitioner’s June 29, 2015, application for EA benefits. See Exhibit P-6. The record shows that at the time Petitioner applied for EA benefits in June, she had a “Warrant of Removal,” with an eviction scheduled to take place on June 30, 2015. See Exhibit P-5. The Agency denied Petitioner’s application on the date it was submitted, stating that “[Petitioner] had a realistic capacity to resolve [her] housing crisis in March [2015] but [she] did not follow through.” See Exhibit R-1. Currently, Petitioner is residing with her cousin, who states in a letter, dated August 17, 2015, that she can no longer live with her because it is becoming an issue with the landlord. See Initial Decision at 6; see also Exhibit P-8. Therefore, I find that Petitioner is now imminently homeless, and any earlier issue of capacity to plan is now too remote in time to be the basis for a denial here, and furthermore, any six-month EA ineligibility penalty that could have been imposed in November 2014, has now expired. Moreover, it does appear that the Agency attempted, albeit unsuccessfully, to assist Petitioner with her housing emergency in March 2015, but Petitioner’s landlord refused to accept three months back rent. See Initial Decision at 2, 5.

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Based upon the foregoing, I concur with the ALJ's conclusion that the Agency wrongfully denied Petitioner's request for EA benefits, and that Petitioner should be reevaluated for EA benefits. Accordingly, I hereby remand this matter back to the Agency to reevaluate Petitioner for EA eligibility, and further order the Agency to address her immediate needs pending the outcome of its reevaluation. In reassessing Petitioner for EA eligibility, the Agency shall take into consideration Petitioner's present income from employment, for which the Agency is applying appropriate income disregards, as well as child support being received by Petitioner. See Initial Decision at 2, 4; see also N.J.A.C. 10:90-6.1(c)(2). Finally, the Agency shall also take into consideration how much, if any, EA benefits Petitioner has received in the past, as the record is silent in this regard.

Petitioner is hereby on notice that, if she is determined to be eligible for EA benefits, the Agency shall determine the most appropriate form of emergency housing required to address the needs of an EA recipient, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1).

Finally, if the reevaluation discussed above results in Petitioner being denied EA benefits, Petitioner is without prejudice to request another fair hearing on that denial.

A copy of the Initial and Final Decisions shall be forwarded to the Division of Child Protection & Permanency ("DCP&P"), f/k/a DFYS.

Accordingly, the Initial Decision is ADOPTED, the Agency's action is REVERSED, and the matter is REMANDED back to the Agency based on the discussion above.

Signed Copy on File
at DFD, BARA

AUG 31 2015

Natasha Johnson
Director