



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Nalasha Johnson
Director
Tel. (609) 588-2400

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 16941-15 D.L.

AGENCY DKT. NO. C379799 (ESSEX COUNTY DIVISION OF WELFARE)

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 emergent situation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 28, 2015, the Honorable Danielle Pasquale, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 28, 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 ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I ADOPT the ALJ's Initial Decision WITH CONTINGENCIES and REVERSE the Agency's determination.

EA benefits, in the form of Temporary Rental Assistance ("TRA"), may be provided "when the recipient is facing eviction, in order to maintain current permanent housing which had been previously affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or underemployment and it is anticipated that such housing will again become affordable; or when it is determined that maintaining the unit in the current housing arrangement is both the least costly alternative and serves to preserve the family structure while the search for affordable housing continues." N.J.A.C. 10:90-6.3(a)(6).

N.J.A.C. 10:90-6.3(a)(5) provides, in pertinent part, that "payment shall be authorized up to any three calendar months of retroactive rental payments if it will prevent actual

eviction Payment for more than three calendar months of retroactive rental payments ... shall be made only under extraordinary circumstances ... subject to authorization by the [DFD]."

N.J.A.C. 10:90-6.3(a)(7) states in pertinent part, "The Agency may authorize TRA [Temporary Rental Assistance] when the total cost of housing inclusive of basic utilities is equal to or below the current Fair Market Rental ("FMR"), as established by the United States Department of Housing and Urban Development [HUD] for the county of residence."

EA benefits are limited to 12 lifetime cumulative months, see N.J.A.C. 10:90-6.4(a), plus limited extensions for an "extreme hardship." A Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") recipient may qualify for two six-month EA extensions if the Agency determines that a case of extreme hardship exists pursuant to N.J.A.C. 10:90-6.4(b)(1). See N.J.A.C. 10:90-6.4(d). While N.J.A.C. 10:90-6.4(b)(1) lists five eligibility criteria to be considered by the Agency, it should be noted the list is not exhaustive. See DFD Instruction 13-12-02 (clarifying that extensions "may be granted for additional reasons beyond those listed in [the] regulation...only after conferring with DFD"). One type of extreme hardship is when "[t]here is the danger of a loss of employment or a bona fide offer of employment" See N.J.A.C. 10:90-6.4(b)(1)(i),

Here, the record indicates that Petitioner is a WFNJ/TANF recipient who has received 14 months of EA benefits. See Initial Decision at 2; see also Exhibit R-1 at 2. Therefore, in order for Petitioner to be eligible for additional EA benefits, she would need to qualify for an extreme hardship extension. See N.J.A.C. 10:90-(a), (b)(1). Additionally, the record indicates that Petitioner is employed, and has an eviction pending. See Initial Decision at 2; see also Exhibit P-1 and P-2. The ALJ found that Petitioner is eligible for an extreme hardship extension because she would be in jeopardy of losing her employment if she were to be evicted, and ordered the Agency to pay Petitioner's back rent, as well as her rent going forward, until her EA benefits are exhausted or become unnecessary. See Initial Decision at 3, 4; see also N.J.A.C. 10:90-6.4(b)(1)(i).

While I agree with the ALJ that Petitioner is eligible for an extension of EA benefits under the extreme hardship extension set forth in N.J.A.C. 10:90-6.4(b)(1)(i), there are other factors that must be taken into consideration before providing the relief that the ALJ ordered, and those factors are not addressed in the record.

Specifically, the record is not clear as to whether Petitioner will be able to continue to reside where she is living, even if her past due rent is paid, because the record indicates that her apartment may be the subject of a foreclosure, in which case

the payment of past due rent would not resolve her imminent homelessness, and would be a waste of EA funds. See Initial Decision at 3. Moreover, the record does

not indicate exactly how many months Petitioner is behind in her rent. See N.J.A.C. 10:90-6.3(a)(5). Additionally, the record indicates that Petitioner has found another apartment and is seeking a security deposit as well as prospective TRA. See Exhibit R-1 at 2. If that is the case, then Petitioner would need to provide the Agency with a copy of the new lease and what the monthly rent will be, including utilities. See N.J.A.C. 10:90-6.3(a)(7).

Based on the foregoing, I agree with, and hereby adopt, the ALJ's conclusion, with the following contingencies. I find that Petitioner is eligible for an extension of EA benefits under the extreme hardship extension, contingent upon her providing the Agency with the information outlined above. Moreover, the Agency is then to determine the most appropriate form of EA benefits that are required to address Petitioner's need. See N.J.A.C. 10:90-6.3(a)(1).

By way of comment, the record is devoid of any facts that would enable me to determine if Petitioner had the capacity to plan in advance to avoid her emergent situation, therefore, that issue has not been addressed here.

Accordingly, the Initial Decision is ADOPTED WITH CONTINGENCIES and the Agency's action is REVERSED.

Signed Copy on File
at DFD, BARA

NOV 06 2015

Natasha Johnson
Director