



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

REMAND DECISION

OAL DKT. NO. HPW 7473-15 D.W.

AGENCY DKT. NO. GA355062 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner's application on the basis of questionable information related to a former address. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 9, 2015, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held an emergent plenary hearing, took testimony and admitted documents into evidence. On that same day, the ALJ issued her Emergent Initial Decision, which reversed the Agency's determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the Initial Decision and I hereby ADOPT in part, and REJECT in part, the Initial Decision, and REVERSE and REMAND the Agency's determination.

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 already occurred. N.J.A.C. 10:90-6.3(a)(1)(ii). Indeed, "applicants and recipients are in all instances the primary source of information about themselves and their families." *Ibid.*

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Here, a review of the record establishes that the Assistance Unit ("AU") consists of two adults, Petitioner, D.W., and S.R, both of whom receive Work First New Jersey/General Assistance ("WFNJ/GA") benefits. See Initial at 2. The record further shows that the AU was receiving WFNJ/GA benefits in Monmouth County that were terminated effective February 1, 2015, because the Monmouth County Agency determined that Petitioner had moved out of the county. See January 15, 2015, Monmouth County Adverse Notification form. In April 2015, the Essex County Agency issued the AU a provisional approval of TRA for six months for the period April 2015 through September 2015, as well as back rent for the months of February and March 2015. See April 7, 2015, Essex County Notification Form. However, the Agency withdrew the provisional approval in its totality, effective May 4, 2015, on the basis of "questionable information about a Monmouth County address for S.R." See Initial Decision at 2-3; see also May 8, 2015, Essex County Adverse Notification Form.

The ALJ in this matter found that the AU was being evicted and therefore imminently homeless. See Initial Decision at 3. With respect to the "questionable" Monmouth County address for S.R., the ALJ noted that "the only connection to Monmouth [County] was pretrial detention in jail for 10 months [after which the AU spent] three months couch surfing until [a] former landlord re-let them [an apartment in Essex County]." Ibid. The ALJ concluded that Petitioner and S.R. were clearly long-term residents of Essex County, "but for their arrest and detention in Monmouth County jail on charges (non-drug) later dropped or reduced to time served." Ibid. I agree with this conclusion, and therefore adopt this portion of the Initial Decision as to the residency issue.

However, I disagree with the ALJ's conclusion in this matter that the AU is eligible for EA/TRA benefits based upon the information presented. Based solely on the UA's testimony, the ALJ found that the AU demonstrated that Unemployment Insurance Benefits ("UIB") it had received were spent on "unusual medical, auto and other expenses," including a one and one-half month security deposit and two month's rent on an apartment. Ibid. The record states that UIB was received by the AU for the period of October 5, 2014 through February 8, 2015, at which point it was exhausted. See id. at 2, para. 2.

An ALJ's findings of fact based upon his or her credibility findings as to lay witness testimony shall not be disturbed by the Agency Head "unless it [is] first [determined] from a review of a record that the [ALJ's] findings are arbitrary, capricious or unreasonable, or are not supported by sufficient, competent, and credible evidence in the record." See N.J.A.C. 1:1-18.6(c). Based upon an independent review of the record, I find that the ALJ's credibility determination of Petitioner's testimony and her findings of fact are not based upon sufficient, credible evidence in the record.

I hereby take official notice of the Landlord/Tenant Complaint (hereinafter "LTC"), Superior Court of New Jersey, Law Division, Special Civil Part, Essex Vicinage,

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Docket Number LT 14690-15, naming Petitioner and S.R. as defendants. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). The LTC indicates that the AU took possession of the apartment on November 1, 2014. See LTC at 4. The LTC further indicates that rent is due and owing since December 1, 2014, to the present. See id. at 5. This is contradictory to the testimony given before the ALJ, as well as the Agency, where back rent had been represented to be unpaid only since February, 2015.

Furthermore, the AU has provided no documentation to substantiate that it spent its UIB for the months of December 2014 and January 2015, on "unusual medical, auto and other expenses," rather than paying rent for those months. Without such documentation, EA shall not be granted, and as such, I REJECT this portion of the ALJ's Initial Decision. See N.J.A.C. 10:90-6.1(c)(1)(ii). I hereby remand this matter to the Agency and I direct Petitioner to provide such substantiation to the Agency, after which the Agency shall reevaluate Petitioner for EA benefits.

I note that the ALJ also ordered alleged retroactive WFNJ/GA benefits. See Initial Decision at 4. The transmitted issue in this contested matter was solely the denial of EA benefits and therefore, I am uncertain if the Agency was properly noticed so as to be prepared to address the issue. Moreover, there is nothing presented in the record in the form of documentary or testimonial evidence by which I may properly address Petitioner's assertion. Therefore, on remand of this matter to the Agency, the Agency shall clarify if, in fact, WFNJ/GA benefits were issued to Petitioner and S.R., beginning on what date and in what form.

By way of comment, the Agency is to direct the AU to the Medicaid unit in Essex County so that the AU's benefits may be restored if not already done so, as the record reflects that such benefits were to be transferred from Monmouth County to Essex County. See January 15, 2015, Monmouth County Adverse Action letter.

By way of further comment, the AU is to reapply for Supplemental Nutrition Assistance Program ("SNAP") benefits, if it has not already done so, as such benefits are not automatically transferred between counties and require reapplication by the household in the county where it resides. See N.J.A.C. 10:87-3.2(a).

Based upon the foregoing, the Initial Decision is ADOPTED in part, and REJECTED in part, and the Agency determination is REVERSED and REMANDED as discussed above.

Signed Copy on File
at DFD, BARA

JUL - 6 2015

Natasha Johnson
Director