



*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*

Jennifer Velez  
*Commissioner*

Jeanette Page-Hawkins  
*Director*  
Tel. (609) 588-2000

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 11210-14 E.A.

AGENCY DKT. NO. GA465705 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of retroactive rent. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On October 31, 2014, the Honorable Leland S. McGee, Administrative Law Judge ("ALJ"), held a plenary hearing, heard testimony, and admitted documents. On December 1, 2014, the ALJ issued an Initial Decision which reversed the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on December 15, 2014.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I ADOPT the Initial Decision and REVERSE the Agency determination.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a).

When Petitioner applied for EA benefits in mid-April 2014, Petitioner requested four months of back rent. See Initial Decision at 2. Petitioner submitted documentation of back rent within two weeks of the application, and a "roommate form" the following month. Ibid.

The Agency worker(s) who evaluated Petitioner's EA application did not testify at the OAL hearing, and the documentary record is limited to the EA application and the four adverse action letters issued in mid-July 2014. See Exhibits R-2, R-3, R-4 and R-5.

The Agency offered no explanation at the hearing for its failure to timely review the application. Furthermore, I agree with the ALJ that the proffered bases of the Agency determination are either unsupported, or inapplicable, to Petitioner's case.

The Agency does not now contend it needed or requested specific additional information or documents to evaluate the EA application. See Exhibit R-2. As found by the ALJ, there was no evidence presented at the hearing that the Agency ever requested, or required, additional information to determine eligibility. See Initial Decision at 4.

The Agency's contention that it may only grant three months of retroactive EA in the form of Temporary Rental Assistance ("TRA"), see Exhibit R-3, is irrelevant to a threshold determination of eligibility for EA, but instead goes to the customary amount of retroactive TRA available to an eligible recipient. Moreover, the Agency ignores the exception in N.J.A.C. 10:90-6.3(a)(5)(i), the strong public policy favoring TRA set forth in N.J.A.C. 10:90-6.3(a)(6). This, combined with the fact that the Agency delayed its evaluation of Petitioner's application, materially contributed to the circumstances upon which the Agency based the denial of EA.

The Agency's contention that Petitioner is ineligible for EA benefits because her rent exceeds applicable Fair Market Rent ("FMR") also fails. See Exhibit R-5; see also Initial Decision at 4. In this matter, there is no evidence the Agency appropriately evaluated all potential contributions of support to the household, including income received by ineligible household members, and specifically contributions from a potential roommate. N.J.A.C. 10:90-6.1(c)(2); -6.3(a)(7). As such, there is no basis in this record to conclude Petitioner is not potentially eligible to live in this particular two-bedroom apartment when taking those potential contributions into consideration. Furthermore, there is no document evidence total rent for this apartment, including utilities, exceeds applicable FMR.

Likewise, the conclusory argument "the Agency determines the most appropriate form of EA," see Exhibit R-4, fails in the absence of any consideration of Petitioner's individual circumstances, much less the offer of specific EA after a favorable eligibility determination. N.J.A.C. 10:90-6.3(a)(1). As stated by the ALJ, "There is no evidence that [the Agency] offered some other form of assistance that Petitioner refused to accept or otherwise offered any assistance alternatives." See Initial Decision at 4.

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However, it is unclear whether Petitioner is presently homeless or imminently homeless, and her original lease agreement has likely expired. As such, under the totality of the circumstances, I find that Petitioner may reapply for EA, without prejudice, at which time the Agency should timely and appropriately evaluate her application and base any grant of EA upon a consideration of her individual circumstances.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

**MAR 24 2015**

*Signed Copy on File*  
at DFD, BARA

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Jeanette Page-Hawkins  
Director