



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

FINAL DECISION

OAL DKT. NO. HPW 5307-15 G.W.

AGENCY DKT. NO. V503534 (HUNTERDON COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Agency's determination of an overpayment of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency claims Petitioner was over paid TRA because his income was more than his current total rent inclusive of gas and electric utilities. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 5, 2015, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence. On May 26, 2015, the ALJ issued his Initial Decision reversing the Agency's determination.

Neither party filed exceptions to this Initial Decision.

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

Pursuant to N.J.A.C. 10:90-3.21(a), "Overpayment means a financial assistance payment (including [EA]) received by an eligible assistance unit for the payment month(s) which exceeds the amount for which the unit was eligible." An overpayment of WFNJ benefits is subject to recoupment, "regardless of fault, including overpayments caused by administrative action or inaction" N.J.A.C. 10:90-3.21(a)(1). The Agency is to take action to recover the overpayment "by the end of the quarter in which the overpayment is first identified." N.J.A.C. 10:90-3.21(a)(12).

Petitioner received EA in the form of TRA from May 2011 to February 2015, and

Supplemental Security Income ("SSI") benefits beginning in 2010. See Initial Decision at 2. Petitioner's SSI payment began at \$705 per month in 2010, and is presently \$764 per month. Ibid. In that same year, 2010, Petitioner's rent was \$625 per month (with approximately \$135 per month in utilities). Ibid. Presently, after moving to a new unit, Petitioner pays \$650 per month in rent with utilities included. Ibid. On February 26, 2015, Petitioner was noticed with a Demand Letter for Repayment of EA as a result of abandoning affordable housing. Id at 2-3. The ALJ found that the Agency did not provide notice of a denial or termination of benefits, but only notice for a recovery of previously paid benefits. Id. at 4. In addition, the ALJ found the Agency neglected to document the overpayment and prove that the amounts paid to Petitioner were an overpayment. Ibid. In conclusion, the ALJ found the Agency was unable to meet its burden of proof. I agree.

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

JUN 05 2015

Signed Copy on File

at DFD, BARA

Natasha Johnson
Director