



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 11896-15 I.G.

AGENCY DKT. NO. C288854 (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 sufficient income to pay her rent, but failed to do so, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 18, 2015, the Honorable Richard McGill, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 19, 2015, the ALJ issued an Initial Decision, which affirmed the Agency's action, albeit on a different legal basis than the one appealed.

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 MODIFY the ALJ's Initial Decision and AFFIRM the Agency's determination. While I concur with the ALJ's final conclusion in this matter, I respectfully disagree with the legal analysis used to reach that conclusion and on that basis I am modifying the Initial Decision.

In order to be eligible for EA benefits, the recipient must demonstrate that her shelter costs equal or exceed the total income available to the assistance unit. N.J.A.C. 10:90-6.1(a)(1). Further, as part of the determination of EA eligibility, the agency must evaluate all potential contributions of support to the household. N.J.A.C. 10:90-6.1(c)(2).

An assistance unit ("AU") may qualify for EA benefits when the AU demonstrates that available funds were exhausted on "items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii); see also DFDI Instruction ("DFDI") 11-03-07 at 2. Items deemed appropriate, include, but are not limited to, food, clothing, housing, attending the funeral of a family member, excessive unreimbursed medical expenses, or car payment or repairs. See N.J.A.C. 10:90-6.1(c)(1)(ii).

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 Supplemental Security Income recipient, such as Petitioner, may qualify for up to 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(c). 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 DFDI 13-12-02 (clarifying that extensions "may be granted for additional reasons beyond those listed in [the] regulation...only after conferring with DFD").

Based on a review of the record, Petitioner has received 19 months of EA benefits, and was five months behind in her rent at the time of the hearing. See Initial Decision at 2, 3; see also Exhibit R-2. Additionally, the record shows that during the months of April, May, and June 2015, Petitioner's AU had a monthly income of \$952, and a decreased monthly income of \$876, beginning in July 2015. See Initial Decision at 2. The record further indicates that Petitioner's monthly rental obligation is \$800, which does not include utilities. Ibid. Therefore, after Petitioner's rent is paid, her AU has available funds with which to pay for other necessary household expenses. Further, the record does not indicate any extraordinary, necessary expenses for which Petitioner was obligated to pay, other than utilities, which may otherwise make EA eligibility a possibility. See N.J.A.C. 10:90-6.1(c)(1)(ii). Nor does the record indicate if Petitioner is receiving, or has applied for, utility assistance, or if she is receiving Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits for groceries. Therefore, I find that Petitioner had sufficient income to pay her rent, failed to do so, and was properly denied EA benefits. However, Petitioner may qualify for EA benefits if she can provide documentary support showing her rent and other necessary expenses exceed her monthly income. See N.J.A.C. 10:90-6.1(c)(1)(ii).

Additionally, the ALJ found that Petitioner was ineligible for EA benefits under the extreme hardship extension because she had not demonstrated any form of extreme hardship. See Initial Decision at 3. However, here, the record does not indicate that the Agency took any of the extreme hardship criteria into consideration when denying Petitioner EA benefits, nor was there any testimony by the parties in relation to that issue.

Based on the foregoing, Petitioner may reapply for EA benefits under the extreme hardship extension provision, with eligibility contingent upon her meeting the requirements set out in N.J.A.C. 10:90-6.4(b)(1) and 10:90-6.1(c)(1)(ii).

By way of comment, the Housing Assistance Program ("HAP") and Housing Hardship Extension ("HHE"), pilot programs expired on July 2, 2015, and no new applications for HAP or HHE are being accepted after July 6, 2015. See DFDI No. 15-07-02.

While I disagree with the legal analyses used by the ALJ, I concur with his ultimate determination in affirming the Agency's denial of EA benefits. Accordingly, the Initial Decision is MODIFIED to reflect the above legal analyses, and the Agency's action is AFFIRMED.

AUG 25 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director