



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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Director

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 6124-15 K.D.

AGENCY DKT. NO. GA136845 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of his application for Work First New Jersey/General Assistance ("WFNJ/GA") benefits, as well as Emergency Assistance ("EA") in the form of Temporary Rental Assistance ("TRA"), because he purportedly failed to comply with the mandatory work requirement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 5, 2015, the Honorable Joan Bedrin Murray, Administrative Law Judge ("ALJ"), conducted a plenary hearing, took testimony, and admitted documents. On June 30, 2015, the ALJ issued her Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND this matter to the Agency for further action.

The record reflects that on October 16, 2014, Petitioner applied to the Agency for WFNJ/GA and EA benefits, as well as additional benefits not at issue here. See Initial Decision at 2. That same day, the Agency notified Petitioner, in writing, that his application was pending until his completion of the 28-day work activity requirement. *Ibid.*; see also Exhibit P-1. Petitioner completed his work activity on November 25,

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2014, as evidenced by Completion Letter issued by the One-Stop Career Center of even date. See Initial Decision at 2; see also Exhibit P-3.

Nevertheless, by adverse action notice dated February 12, 2015, the Agency denied Petitioner's WFNJ/GA application, contending that Petitioner failed to complete the mandatory work requirement. See Initial Decision at 2; see also Exhibit P-2. Evidently, through administrative error, the completion by Petitioner of his work activity was incorrectly documented in the Agency's system. See Initial Decision at 3. Further, due to a backlog of public assistance applications at the Agency's office, the Agency inadvertently failed to process Petitioner's application for EA. Ibid.

At the hearing, the Agency representative testified that she was not aware until May 27, 2015, that an EA application was included in Petitioner's October 16, 2014, benefits application. See Initial Decision at 3. Although she knew of no impediment to Petitioner's EA eligibility, the Agency representative also testified that Petitioner has not yet been formally evaluated for EA by the Agency. Ibid.

The ALJ found that Petitioner owes back rent from December 1, 2014, to date. See Initial Decision at 3. However, Petitioner has not yet been evicted by his landlord, nor did he produce any evidence of a threatened or pending eviction. See Initial Decision at 3-4. Indeed, the ALJ noted that nothing presented at the hearing explained why Petitioner's landlord has allowed him to remain in the apartment, despite such a large amount of rental arrearages. Ibid.

Pursuant to the WFNJ regulations, the Agency shall determine the most appropriate form of EA needed "to address the need and authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided." See N.J.A.C. 10:90-6.3(a)(1). Further, payment of EA/TRA shall be authorized for up to three calendar months of retroactive rental payments, if it will prevent actual eviction or foreclosure. See N.J.A.C. 10:90-6.3(a)(5). Payment for more than three calendar months of retroactive rental payments shall be made only under extraordinary circumstances, subject to authorization by DFD. Ibid.

In her Initial Decision, the ALJ concluded that, due to the Agency's untimely processing of Petitioner's application, the Agency should re-evaluate Petitioner for EA. See Initial Decision at 4. Moreover, the ALJ found the existence of extraordinary circumstances in this case, justifying the payment of more than three months of retroactive rent. Ibid.; see also N.J.A.C. 10:90-6.3(a)(5)(i). Therefore, the ALJ ordered that, if Petitioner qualifies for EA, the Agency is to grant EA/TRA to Petitioner in the form of eight months of retroactive rental payments beginning December 1, 2014. See Initial Decision at 4.

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Based upon my review of the facts and the law, I agree with the ALJ that the Agency should re-evaluate Petitioner for EA. See Initial Decision at 4. Accordingly, I hereby REMAND this case to the Agency for that purpose. However, I disagree that EA/TRA should necessarily be paid in the form of eight months of retroactive rent, for the following reasons. First, it appears that the ALJ did not take into consideration Petitioner's past and current circumstances, as is required by N.J.A.C. 10:90-6.3(a)(1). Through August 2015, Petitioner will owe nine months of back rent. Nothing in the record indicates that payment to Petitioner's landlord of retroactive rent for eight or more months will prevent eviction. Second, it is unclear whether Petitioner's apartment is affordable, and whether it will be affordable going forward, considering that Petitioner's only income consists of WFNJ/GA benefits.

Therefore, I hereby MODIFY the ALJ's Initial Decision to reflect that, if Petitioner qualifies for EA, the Agency will determine the most appropriate form of EA for Petitioner, taking into consideration the totality of Petitioner's financial circumstances. See N.J.A.C. 10:90-6.3(a)(1).

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's determination is hereby REVERSED, and this case is hereby REMANDED to the Agency for further action as set forth herein.

Signed Copy on File
at DFD, BARA

JUL 16 2015

Natasha Johnson
Director