



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

FINAL DECISION

OAL DKT. NO. HPW 3117-15 M.A.

AGENCY DKT. NO. C223662 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") in the form of a Housing Assistance Program ("HAP") extension. The Agency denied Petitioner EA benefits under HAP because EA benefits were exhausted and the Agency believes Petitioner is not eligible for HAP under her disabled child's SSI. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On April 23, 2015, the Honorable Joann LaSala Candido, Administrative Law Judge ("ALJ"), held a plenary hearing and admitted documents. No testimony was taken at the hearing because the parties and the ALJ agreed that because no facts were in dispute, testimony was not needed. The record was closed on April 28, 2015, and on April 29, 2015, the ALJ issued an Initial Decision reversing the Agency's determination.

The Agency filed an Exception to the Initial Decision on May 5, 2015.

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 of the ALJ and REVERSE the Agency's determination.

The purpose of EA is to meet the emergent needs, such as imminent homelessness, of public assistance recipients. See N.J.A.C. 10:90-6.1(a). 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

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their control or the absence of a realistic capacity to plan in advance for substitute housing." EA benefits are limited to 12 cumulative months, plus two six-month extreme hardship extensions, where the recipient has taken "all reasonable steps to resolve the emergent situation but the emergency nonetheless continues or a new emergency occurs, which causes extreme hardship to the family." See N.J.A.C. 10:90-6.4(b).

Only Work First New Jersey ("WFNJ") and Supplemental Security Income ("SSI") recipients are eligible for EA benefits. N.J.A.C. 10:90-6.2(a). If an SSI recipient exhausts their lifetime limit of EA benefits, the recipient may receive additional EA benefits under the Housing Assistance Program ("HAP"), which is a pilot program that expands upon the extensions of EA benefits. See N.J.A.C. 10:90-6.10. HAP was designed to provide additional housing assistance for up to 24 months to WFNJ and SSI recipients "who are in imminent danger of homelessness and have exhausted all EA extensions, as appropriate, provided such recipients continue to need EA and are otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1." See N.J.A.C. 10:90-6.10(a). The regulation specifically provides that a 24-month HAP extension may be granted when "[t]he recipient is the sole caretaker of a severely disabled or seriously ill dependent child or family member." See N.J.A.C. 10:90-6.10(a)(1)(ii).

A review of the record indicates that Petitioner is an undocumented alien who is the sole caretaker for her disabled minor child, an SSI recipient who has been diagnosed with autism, severe ADHD, and a medical condition known as Eosinophil Rich Esophagitis. See Initial Decision at 3. While it is clear that Petitioner herself is not eligible to receive EA, the record indicates that Petitioner's disabled minor child is an SSI recipient and, as such, is EA eligible. See Initial Decision at 3. In fact, the Agency has provided Petitioner with 27 months of EA under her minor child's SSI status. *Ibid.*

The ALJ found that Petitioner's only income is her son's SSI of \$764.23 per month, and Petitioner does not receive child support. See Initial Decision at 3. The ALJ concluded that a hardship to the family will exist if Petitioner is denied EA in the form of a HAP extension under her disabled child's SSI. Accordingly, the ALJ concluded, and I agree, that Petitioner is eligible for a HAP extension under her SSI recipient child. *Ibid.* Therefore, the Agency's denial of Petitioner's EA extension application under HAP should be reversed.

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

MAY 26 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director