



State of New Jersey

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 13642-14 M.C.

AGENCY DKT. NO. GA568046 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 31, 2014, the Honorable Joan Bedrin Murray, Administrative Law Judge ("ALJ"), held a plenary hearing, heard testimony and admitted documents. On November 3, 2014, the ALJ issued an Initial Decision which reversed the Agency determination.

The Agency submitted exceptions on November 6, 2014.

As the Director of the Division of Family Development, I independently reviewed the record and hereby ADOPT the Initial Decision and REVERSE the Agency determination.

Petitioner receives Work First New Jersey/General Assistance ("WFNJ/GA") and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits. The SNAP assistance unit consists of Petitioner and an adult son. The son does not receive WFNJ cash benefits. The household also includes a 13 year-old nephew living in the country on an expired visa after the death of his mother who was also Petitioner's sister. Petitioner recently retained legal counsel in an effort to resolve the nephew's immigration status.

Petitioner is a resident of New Jersey and a licensed practical nurse recently separated from her job in New York State who exhausted her unemployment

insurance benefits in August 2014. Petitioner is in the process of reinstating her lapsed New Jersey nursing license while recovering from surgery necessitated by injuries sustained in connection with a subsequent, unrelated assault. Petitioner expects the State will reinstate her nursing license by the end of November, and anticipates she can return to full-time employment within several months.

The Agency denied EA because Petitioner did not provide proof of her son's income, notwithstanding the previous grant of SNAP benefits to the son and its assertion he is unemployed and has no income. See N.J.A.C. 10:90-6.1(c)(2). The landlord obtained a judgment for possession, permitted Petitioner to leave her belongings in the apartment, and will allow her to move back upon payment of rent retroactive to August 2014. N.J.A.C. 10:90-6.3(a)(1)(ii); -6.3(a)(5). Petitioner and the nephew are temporarily staying with a friend, the son is living elsewhere.

"An eligible assistance unit under WFNJ/Temporary Assistance for Needy Families ("WFNJ/TANF") shall be comprised of those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship. (A legal relationship is one that is created through marriage, adoption, civil union or legal guardianship procedures.) The eligible WFNJ/TANF assistance unit includes the parent(s), parent person(s) or legal guardian and his or her related dependent children up to the age of 18." N.J.A.C. 10:90-2.7(a).

"When a parent and another adult relative live in the same household and both are providing care and control of the child(ren), it shall be presumed that the parent is exercising primary responsibility for the care and control of the child(ren) and, therefore, the other adult relative shall not be included in the WFNJ/TANF unit." N.J.A.C. 10:90-2.7(a)(1)(ii).

It appears the WFNJ assistance unit may properly consist of Petitioner and the nephew. N.J.A.C. 10:90-2.7(a)(1)(v). Because unit composition affects the amount of cash benefits and the form of EA, the parties shall meet as soon as practicable to determine whether Petitioner is eligible for WFNJ/TANF.

Regardless, there is sufficient credible evidence Petitioner is eligible for EA, only the amount and form of which is affected by the composition of the assistance unit.

"A pending eviction or foreclosure must be documented, either through a tenancy complaint filed by the landlord or an order from a court for eviction or foreclosure. Where such documentation does not exist, a letter from a landlord or other person serving in such capacity ..., subject to agency verification, stating that eviction is imminent or has occurred shall be accepted by the agency." N.J.A.C. 10:90-6.3(a)(1)(ii).

Page 3

Under the totality of the circumstances, the Agency could have asked Petitioner to provide a letter from the landlord that documented a then one-month rent arrearage and an intention to file a tenancy complaint, rather than requiring the landlord to evict Petitioner the following month.

“As part of the determination of eligibility for [EA], the Agency shall evaluate all potential contributions of support to the household, including income received by ineligible household members.” N.J.A.C. 10:90-6.1(c)(2).

The Agency shall determine the most appropriate form of EA required to address the need, “taking into consideration individual/family circumstances and services provided.” N.J.A.C. 10:90-6.3(a)(1)(ii).

In determining the most appropriate form of EA, the Agency must consider the State’s strong public policy favoring the maintenance of “current permanent housing which had been affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or underemployment, and it is anticipated that such housing will again become affordable; or when it is determined that maintaining the unit in the current housing arrangement is both the least costly alternative and serves to preserve the family structure while the search for affordable housing continues. Temporary Rental Assistance (“TRA”) is the preferred form of emergency housing assistance in all situations, as appropriate.” N.J.A.C. 10:906.3(a)(6).

The fact Petitioner’s rent is at least \$85.00 more than Fair Market Rent should be considered in light of Petitioner’s individual circumstances and the public policy that favors TRA, in particular the maintenance of current permanent housing. Regardless, the son may not live in Petitioner’s apartment unless and until he establishes eligibility for WFNJ cash benefits and EA, or as a lessee pays a proportionate share of rent. This may be a determinative factor if the apartment is a three-bedroom unit.

For the foregoing reasons, I ADOPT the Initial Decision and REVERSE the Agency determination.

NOV 21 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director