



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625
(609) 588-2400

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Elizabeth Connolly
Acting Commissioner

Natasha Johnson
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 4676-15 M.J.

AGENCY DKT. NO. C094326 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") benefits because she had a realistic capacity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 8, 2015, the Honorable Tiffany M. Williams, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, admitted documents, and issued an Initial Decision which reversed the Agency determination.

Exceptions to the Initial Decision were received from the Agency dated April 8, 2015, and from Northeast New Jersey Legal Services, Inc. on April 13, 2015 on behalf of Petitioner.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record, the exhibits, and the ALJ's Initial Decision, and having made an independent evaluation of the record, I REJECT the Initial Decision and REMAND this matter to the Agency.

The purpose of EA is to meet the needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work related activities without disruption in order to continue on the path to self-sufficiency. 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 relevant part, that the individual must have an "actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing."

However, when the recipient causes her own homelessness, she is ineligible for EA. *Ibid.*; see also N.J.A.C. 10:90-6.1(c)(3)(imposing six-month period of EA ineligibility when applicant has caused their own homelessness for reasons including had available funds and capacity to prevent homelessness).

Petitioner receives monthly public assistance as follows: Supplemental Security Income ("SSI") of \$764.00; SSI for a disabled child of \$764.00; Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") of \$162.00; and Supplemental Nutrition Assistance Program ("SNAP") benefits of \$289.00. See Initial Decision at 3. In late August 2014, Petitioner applied to Respondent for EA in the form of a security deposit, which was granted by Respondent in the amount of \$2,025.00 representing a security deposit needed for an apartment with a \$1,350.00 monthly rent, to be occupied on October 1, 2014. See Exhibit R-4. The EA Landlord Letter sets forth Petitioner as the EA recipient and names a co-tenant, A.M. The EA Landlord Letter further indicates that four (4) people were to reside in the apartment: the Petitioner, her two children, and the co-tenant A.M. *Ibid.* At that time, A.M. certified to the Agency that he would contribute \$650.00 per month towards the rent. See Initial Decision at 3.

On March 3, 2015, Petitioner and A.M. were served with a Tenancy Summons and Verified Complaint filed by the landlord against them for non-payment of monthly rent of \$1,350.00 under a written lease dated October 1, 2014. The Summons and Complaint named both Petitioner and A.M. as Defendants/Tenants. Thereafter, in March 2015 Petitioner again applied to Respondent for EA/TRA benefits in the amount of \$4,720.00 for three months of back rent for the period January 2015 through March 2015. See Exhibit R-1. On March 24, 2015, the Agency denied Petitioner's application because Petitioner's total monthly income is \$1,690.50 and the monthly rent was \$1,350.00, finding Petitioner had the realistic capacity to plan and pay her rent. See Initial Decision at 1-2; see also Exhibit R-1.

At the April 8, 2015 hearing before the ALJ, Petitioner testified that she applied for EA/TRA for three months of rental arrears because of "additional responsibilities that she took on financially due to no longer having the rental contribution of one of the house occupants, due to his job loss." See Initial Decision at 3. Petitioner further testified that "[r]ent contributions by her household member will resume in April due to his securing a new position." *Ibid.* The Agency representative testified that Petitioner was denied due to her failure to plan, and that although Petitioner had available funds and sufficient income to pay her rent during that time period, she did not pay it. *Ibid.*

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Additionally, the Agency representative stated that when Petitioner previously applied for and was granted EA/TRA in late August 2014 for the security deposit, Petitioner signed a Service Plan acknowledging that rental payments were a priority. *Ibid.*; see also Exhibit R-5.

The ALJ reversed the Agency's denial of EA benefits on the basis that Petitioner was credible in her testimony about the myriad of expenses she had paid in January, February, and March in lieu of paying her rent. See Initial Decision at 3. The ALJ further found Petitioner credible when she testified that she "was never asked before being denied, to state these expenses, provide detail or accompanying receipts." *Ibid.* According to the ALJ, Petitioner's testimony was corroborated by the absence of an application or a letter from Respondent to Petitioner prior to Respondent's denial requesting verification of any expenses. See Initial Decision at 4. Because Petitioner testified that she presently had \$2,000.00 available, the ALJ directed Petitioner to pay the full amount of the April 2015 rent plus \$650.00 towards the remaining arrearage, and further directed the Agency to immediately issue back rental benefits of \$4,102.00 to the landlord. *Ibid.*

Upon reviewing the Initial Decision, and based on the facts of record, the exhibits, and the discrepancies between the facts and Petitioner's testimony, I disagree with the ALJ's undocumented acceptance of Petitioner's claim that she used her income to pay for other expenses besides rent. See Initial Decision at 3. It should be noted that Petitioner did not testify as to the exact nature of these expenses or what amounts she expended from her income to pay them. *Ibid.* Petitioner's testimony that she was never asked by Respondent for a detailed list of her expenses prior to the denial has no bearing on the Agency's denial of her application. Because Petitioner's monthly income (\$1,690.00) exceeded her monthly rent (\$1,350.00), and absent sufficient information or documentation demonstrating that her available funds were exhausted on appropriate items, it appears the Agency properly denied Petitioner's application for EA/TRA benefits because she had sufficient funds to prevent her own homelessness. See N.J.A.C. 10:90-1.6(c).

Furthermore, it does not appear from the record that A.M. is a public assistance recipient and he was not included in any of Petitioner's granted benefits. Because A.M. is not a part of Petitioner's WFNJ/TANF assistance unit, the Agency is unable to issue any benefits to Petitioner for A.M.'s portion of the three months of unpaid rent. See N.J.A.C. 10:90-6.2 (only WFNJ and SSI recipients are eligible for emergency assistance). The Agency may only consider an EA/TRA application for Petitioner's portion of the unpaid rent.

To date, Petitioner has not provided sufficient information or documentation demonstrating that her 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).

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Before the Agency can re-evaluate Petitioner's application for benefits under N.J.A.C. 10:90-6.1(c)(1), Petitioner needs to provide detailed proof regarding the "myriad of expenses" (see Initial Decision at 3) she allegedly incurred during January, February, and March 2015 that prevented Petitioner from using her income to pay at least her portion of the monthly rent.

Based on my analysis of the facts and the record, the ALJ's Initial Decision is REJECTED and this matter should be REMANDED to the Agency. The Petitioner must provide the Agency with documentation detailing the expenses that she incurred from January, February and March. Upon receipt of the documentation, the Agency shall re-evaluate the Petitioner's EA application to determine whether Petitioner's available funds were exhausted on items deemed appropriate, necessary, or reasonable for decent living and such expenditures were made as a 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).

If, after reviewing the documentation provided by the Petitioner, the Agency determines that the Petitioner had the available funds to pay her rent, but failed to do so, the Agency shall provide the Petitioner with an Adverse Action notice in accordance with N.J.A.C. 10:90-9.1 et seq., and Petitioner shall retain the right to request a fair hearing.

Accordingly, the Initial Decision is REJECTED and the case is REMANDED to the Agency.

MAY 14 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director