



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 19220-15 T.G.

AGENCY DKT. NO. C241433 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner EA benefits contending that she moved into unaffordable housing, and was unable to pay her rent, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 11, 2015, the Honorable Jeffrey A. Gerson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 14, 2015, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on December 15, 2015 .

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter back to the Agency based on the discussion below.

Pursuant to N.J.A.C. 10:90-6.3(a)(1), the "agency shall determine the most appropriate form of emergency housing which is required to address the need and authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided." Such emergency housing includes placement in a shelter. Ibid.

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Here, the ALJ found that at the time Petitioner moved into her apartment, she anticipated it to be affordable, based on her monthly Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, her mother's income (although the record is devoid of any information regarding where her mother's income was coming from), and her brother's Supplemental Security Income ("SSI") benefits. See Initial Decision at 2. However, Petitioner testified that after she moved into her apartment, her brother was incarcerated and his SSI was being withheld, and, therefore, she was no longer able to pay the rent. *Ibid.* Based on the foregoing the ALJ found that Petitioner's circumstances did not amount to a failure to plan or a causing of her own homelessness, and ordered that EA/TRA be provided to Petitioner. *Id.* at 2-3.

While I agree that the Agency has not demonstrated that Petitioner moved into a knowingly unaffordable apartment and that she has caused her own homelessness, as opined by the ALJ, the record does not substantiate the ALJ's order to provide Petitioner with EA/TRA. Specifically, there is no documentation of an actual or imminent eviction; no indication of whether the apartment is within the Fair Market Rent for Hudson County, see N.J.A.C. 10:90-6.3(a)(7)(i)(1); no information on her mother's source of income and ability to contribute her required portion of the rent; and no copy of the lease. All of which will be needed before the Agency can determine Petitioner's EA/TRA eligibility. Moreover, it is the Agency who shall determine the most appropriate form of EA benefits, which may include motel/shelter placement, in this instance. See N.J.A.C. 10:90-6.3(a)(1). However, the Agency is reminded that EA/TRA is the preferred form of EA. N.J.A.C. 10:90-6.3(a)(6). Therefore, I am remanding the matter back to the Agency to reevaluate Petitioner for EA benefits. The Initial Decision is modified to reflect this finding.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is MODIFIED, the Agency's action is REVERSED, and the matter REMANDED back to the Agency based on the discussion above.

DEC 29 2018

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director