



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 8332-15 V.O.

AGENCY DKT. NO. C138130 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from Respondent Agency's denial of her application for Emergency Assistance ("EA") in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner's application because she caused her own homelessness by moving into an apartment she could not afford. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 10, 2015, the Honorable Jesse H. Strauss, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 11, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were received from the Agency on June 25, 2015.

As the Director of the Division of Family Development, Department of Human Services, I have considered the Initial Decision and, following an independent review of the record, I hereby ADOPT the ALJ's decision, MODIFY same as to the form of EA to be granted, and REVERSE the Agency's determination.

The record reveals that Petitioner receives \$185.00 per month in Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, and \$699.00 per month in Supplemental Nutrition Assistance Program, f/k/a the Food Stamp Program, benefits. In 2013, domestic violence threats against Petitioner and her children caused the family to leave affordable housing and to seek EA from the Agency in the form of shelter placement in another town. See Initial Decision at 3. Although Petitioner and her family left their subsidized apartment

in 2013, Petitioner's name remained on the lease until January, 2015, when her 18-year old son took over the lease and began residing there. Ibid.

Prior to moving into her current apartment, Petitioner and three of her children lived with family members, including staying with Petitioner's mother. See Initial Decision at 2. However, Petitioner and her family were putting Petitioner's mother at risk of losing her subsidized housing. Ibid. Therefore, on February 20, 2015, Petitioner's mother paid \$430.00 for partial rent on an \$800.00 per month apartment in Bayonne so that Petitioner and her family could relocate there. Ibid. However, Petitioner's mother is disabled and her sole income is \$461.25 in Supplemental Security Income ("SSI"). Ibid. Accordingly, Petitioner's mother could not continue to contribute financially towards her daughter's new apartment. Ibid.

Since moving into her apartment in February, 2015, Petitioner has not paid any subsequent rent. See Initial Decision at 2. Consequently, Petitioner now owes four months of back rent for March through June, 2015 of \$3,200.00, and her landlord has obtained a lockout order for July 1, 2015. Ibid. Accordingly, Petitioner applied to the Agency for EA/TRA and the Agency denied her application effective June 4, 2015, on the basis that, by moving into an apartment she could not afford, Petitioner caused her own homelessness. See Initial Decision at 1-2.

The ALJ opined that Petitioner should have known in advance that her mother would be unable to continue paying towards Petitioner's rent because of her mother's fixed, limited monthly income. See Initial Decision at 4. Therefore, Petitioner moved into an unaffordable apartment. Ibid. Also, Petitioner has had two years since she left Carteret to seek and obtain affordable housing, but she did not do so. Ibid. Although these facts indicate that Petitioner caused her own homelessness, the ALJ concluded, and I agree, that because Petitioner's family is in crisis, she is eligible for EA. Ibid.

However, I disagree with the ALJ's order that the form of EA should necessarily be the payment of Petitioner's back rent, plus continuing rental payments, for an apartment that Petitioner clearly cannot afford. See Initial Decision at 4. Rather, the Agency is to determine the most appropriate form of EA required to address Petitioner's needs. See N.J.A.C. 10:90-6.3(a)(1). Clearly, Petitioner does not have the financial ability to pay future rent and, as illustrated by her Med-1 form, she is unable to work until at least May of 2016. See Initial Decision at 2. Therefore, payment of Petitioner's back rent, plus any future rent, is futile because Petitioner will likely face eviction again once her EA is exhausted.

Further, paying four or five months of Petitioner's back rent will exhaust nearly half of Petitioner's lifetime limit of EA, with no benefit to be gained because there is no realistic expectation that Petitioner will be able to independently pay her rent after

her 12 months of EA are exhausted. The more appropriate form of EA under these circumstances may be immediate shelter placement, but I defer to the Agency to make a determination as to the appropriate form of EA in this case.

For the foregoing reasons, I hereby ADOPT the ALJ's Initial Decision but MODIFY same as to the form of EA to be granted, and I REVERSE the Agency's denial of EA/TRA to Petitioner.

Petitioner's EA eligibility is contingent upon her completing a domestic violence assessment, which is to be scheduled by the Agency, in accordance with the Family Violence Option Initiative, N.J.A.C. 10:90-20.5.

A copy of the Initial and Final Decisions will be sent to the Department of Child Protection and Permanency ("DCP&P"), f/k/a the Division of Youth and Family Services ("DYFS"), to insure that the health, safety, and welfare of Petitioner's children are protected.

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

Accordingly, the Initial Decision in this matter is hereby ADOPTED but MODIFIED as set forth herein, and the Agency's action is hereby REVERSED.

Signed Copy on File

at DFD, BARA

Natasha Johnson
Director

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