



State of New Jersey

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TRENTON, NJ 08625-0716

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

FINAL DECISION

OAL DKT. NO. HPW 13814-18 A.M.

AGENCY DKT. NO. C652534007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that Petitioner had the available funds and the capacity to plan to avoid her emergent situation, but failed to do so, thereby causing her own homelessness; that she was six months behind in her rent; and that she is not imminently homeless. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 10, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 31, 2018, the ALJ issue an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on November 15, 2018.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination, as discussed below.

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 their control or the absence of a realistic capacity to plan" to avoid their emergent situation. Documentation must be presented to the Agency demonstrating that an eviction is pending or has occurred. See N.J.A.C. 10:90-6.3(a)(1)(ii). Such documentation may be in the form of a letter from a landlord or other person, such as a family member or relative, serving in such a capacity. Ibid.

A lack of realistic capacity to plan exists where the assistance unit demonstrates that 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).



Here, the record reflects that Petitioner's assistance unit consists of herself and six children, one of whom is disabled. See Initial Decision at 2. It appears from the record that Petitioner's monthly household income consists of \$476 in monthly Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, \$781 in monthly Supplemental Security Income ("SSI") benefits for her disabled child, and \$200 in monthly child support, totaling \$1,457. See Initial Decision at 2; see also Exhibits R-1, R-3 at 3, R-4 at 1, 12. Petitioner's monthly rent is \$925, which is below the Fair Market Rent for a three-bedroom apartment in Essex County, her average monthly utility bill is \$265.14, plus \$77 extra toward arrears, and she has monthly expenses of \$400 necessary for the care of her disabled child. See Initial Decision at 2-3; see also Exhibit P-7 at 3-12, and N.J.A.C. 10:90-6.1(c)(1)(ii), -6.3(a)(5), -(7)(i)(1), and DFD Instruction 18-09-04. Nevertheless, after allowing for some limited deductions, the Agency determined that Petitioner had \$1,229 in available income, which is \$304 more than her rent, and as such, denied Petitioner EA benefits on the basis that she had sufficient income to pay her rent. See Initial Decision at 4; see also Exhibit R-2, and N.J.A.C. 10:90-6.1(c), -6.4(b). Petitioner is currently three months behind in her rent in the amount of \$1,900, and is facing imminent eviction, as substantiated in a letter from her landlord. See Initial Decision at 2; see also Exhibit P-1, and N.J.A.C. 10:90-6.3(a)(1)(ii). Based on the record presented, I find that Petitioner did not have the capacity to avoid her emergent situation, and I concur with the ALJ's finding that Petitioner did not cause her own homelessness, that she is facing imminent eviction, and that, as of September 2018, she was three months behind in her rent, not six months as claimed by the Agency. See Initial Decision at 4-5; see also Exhibit P-1. Accordingly, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 5; see also Exhibit R-2, and N.J.A.C. 10:90-6.1(c). I agree. However, as Petitioner is now five months behind in her rent, I direct the Agency to provide Petitioner with EA benefits in an amount required to bring her rent current, as well as prospective EA benefits, provided she continues to need said benefits and remains otherwise eligible for same. See Exhibit P-1; see also N.J.A.C. 10:90-6.3(a)(5)(i).

Further, based on an independent review of the record, I note that as of November 1, 2018, Petitioner is receiving \$900 per month in Supplemental Nutrition Assistance Program ("SNAP") benefits. See Exhibit R-4 at 2, 10, 11. The Initial Decision is modified to accurately reflect Petitioner's current monthly SNAP benefit amount. See Initial Decision at 2, 3.

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 hereby MODIFIED, and the Agency's action is REVERSED, as outlined above.

Officially approved final version.

**DEC 20 2018**

Natasha Johnson  
Director

