



State of New Jersey

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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 14547-17 J.M.

AGENCY DKT. NO. C130351006 (CUMBERLAND COUNTY BD OF SOC SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of past due mortgage and utility payments. The Agency denied Petitioner EA benefits contending that he had the financial resources and the capacity to plan to avoid his emergent situation, and that he was more than three months past due on his mortgage payments. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 6, 2017, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 27, 2017, the ALJ issued an Initial Decision, affirming/reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on January 12, 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 MODIFY the Agency's determination.

Pursuant to N.J.A.C. 10:90-1.12, a basic eligibility requirement for receipt of WFNJ benefits is that an applicant must apply for all other benefits he/she may be eligible for.

N.J.A.C. 10:90-6.3(a)(5) provides that "payment shall be authorized up to any three calendar months of retroactive rental payments or mortgage payments, and/or six calendar months of retroactive utility payments if it will prevent actual eviction or foreclosure." Payment for more than three calendar months of retroactive rental payments, and or six months of retroactive utility payments shall be made only under extraordinary circumstances subject to authorization by DFD. See N.J.A.C. 10:90-6.3(a)(5)(i).

Here, the record reflects that on September 21, 2017, Petitioner applied for EA benefits in the form of five months of past due mortgage payments, and for utility payments past due since August 2017. See Initial Decision at 2-3; see also Exhibit R-1 at 1, 6-23. The ALJ found that Petitioner was ineligible for EA benefits for past due mortgage payments because at the time of the hearing, Petitioner had modified the terms of his mortgage, resulting in his mortgage being paid current, and as such, Petitioner is not in jeopardy of foreclosure. See Initial Decision at 4. Accordingly, the ALJ affirmed the Agency's denial of EA benefits in the form of back mortgage payments. *Ibid.*; see also Exhibit R-1 at 2-5. I agree.

However, the ALJ found Petitioner eligible for EA benefits in the form of back utility payments on the bases that Petitioner is facing the shut off of his utilities, that he used the proceeds of his 401K to keep current with his bills as long as possible, and that payment of said utilities will stabilize his housing situation. *Id.* at 3-4; see also Exhibit R-1 at 24-32, and N.J.A.C. 10:90-6.3(a)(5). While I agree that Petitioner is eligible for EA benefits in the form of back utility payments, I find that he



could have, and must, first apply for all other benefits that may be able to assist with his utility payments, including the Universal Service Fund and the Fresh Start Program. See N.J.A.C. 10:90-1.12; see also Exceptions. Therefore, I find Petitioner eligible for EA benefits in the form of back utility payments, contingent upon proof that he has first applied for all other benefits that he may be eligible for with respect to utility payment assistance. The Initial Decision is modified to reflect this finding.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is MODIFIED.

**FEB 15 2018**

Officially approved final version.

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Natasha Johnson

Director

