



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 15545-18 O.R.

AGENCY DKT. NO. C714365007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of back utilities. The Agency denied Petitioner EA benefits contending that she had sufficient income to pay her utilities, but failed to do so. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 26, 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 2, 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 REJECT the ALJ's Initial Decision, and AFFIRM the Agency's determination.

When there is no other source of support available, EA benefits may be authorized for six months of retroactive utility payments in order to prevent the loss of utilities or make utilities operable. See N.J.A.C. 10:90-6.1 and -6.3(a)(5). On the other hand, EA benefits are not available when the assistance unit has a realistic capacity to plan in advance to avoid their emergent situation. See N.J.A.C. 10:90-6.1(c).

Here, the record reflects that Petitioner and her three children moved from New York ("NY") to New Jersey, and that NY had paid her \$1,350 monthly rent for the months of September 2017, through August 2018. See Exhibits R-1, R-6. Petitioner was responsible for the payment of her utilities which averaged \$250 per month. See Initial Decision at 2; see also Exhibits P-1 through P-4, R-4. Petitioner currently owes \$900 in past due utility payments. See Initial Decision at 2; see also Exhibit R-4 at 5.

Prior to receiving Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, Petitioner was receiving \$840 per month in child support, yet she failed to pay her monthly utility bills when due. See Initial Decision at 3; see also Exhibits P-6, R-4. In December 2017, Petitioner began receiving \$488 per month in WFNJ/TANF benefits, plus \$100 per month in child support pass through, allotted out of her \$840 monthly child support payment, which had been remitted directly to the Agency, yet Petitioner failed to pay her monthly utility bills. *Ibid.*; see also Exhibits R-5, R-8, and N.J.A.C.



10:90-3.8(h), and DFD Instruction ("DFDI") 09-1-4. Petitioner had also received Supplemental Nutrition Assistance Program ("SNAP") benefits in the amount of \$544 per month during the time at issue. See Exhibit R-7. Petitioner is currently receiving \$391 in monthly SNAP benefits. See Initial Decision at 2; see also Exhibit R-7. Of note, Petitioner's WFNJ/TANF benefits were terminated in September 2018, as it appears from the record that Petitioner's child support payments exceeded the maximum allowable benefit level of \$488 for an assistance unit of 3, and as such, Petitioner was ineligible for WFNJ/TANF benefits. See Exhibit R-6 at 3; see also Exhibit P-6, R-4, and N.J.A.C. 10:90-3.3(b), -3.8(h). Moreover, the termination of Petitioner's WFNJ/TANF benefits allowed Petitioner to keep her full monthly child support payment of \$840, significantly higher than her \$488 monthly WFNJ/TANF benefit. See Initial Decision at 2; see also Exhibit R-6 at 3.

Based on an independent review of the record, I find that Petitioner had sufficient funds to plan for, and pay, her monthly utility obligation, but failed to do so. See Exhibits P-6, R-3, R-5, and R-8. Although the ALJ found otherwise, it does not appear from the record that the ALJ took into consideration the fact that Petitioner did not have a rental payment for a full year, from September 2017, through August 2018.

See Initial Decision at 2-3. Further, the record is devoid of any evidence of extraordinary household expenses or compelling medical issues that would have kept Petitioner from paying her monthly utility bill. See Initial Decision at 3. Additionally, as Petitioner's current monthly income is \$840 in child support, and the record reflects that Petitioner is unemployed, I find that her apartment at \$1,350 per month, plus \$250 in utilities, is unaffordable, and that the payment of back utilities will not address Petitioner's emergent situation. See Exhibit R-6 at 2. Based on the foregoing, I find that the Agency's denial of EA benefits in the form of past due utility payments was proper and must stand. See N.J.A.C. 10:90-6.1(c).

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including all applicable programs through the Department of Community Affairs ("DCA") which may be able to assist her with her utility payments.

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

Officially approved final version.

Natasha Johnson
Director

