



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 02837-18 M.L.

AGENCY DKT. NO. C131063007 (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 she was more than three months behind in her rent, and that her rent was over the fair market rent ("FMR") for Essex County. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 26, 2018, the Honorable Susana E. Guerrero, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On February 27, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that Petitioner was initially denied EA benefits on December 21, 2017, for failure to provide documentation. See Initial Decision at 2, 5; see also Exhibit R-2, and N.J.A.C. 10:90-2.2(a)(5). Around that same time, the Agency informed Petitioner that she was ineligible for EA benefits in the form of back rent because her rent was more than three months past due. See Initial Decision at 2; and N.J.A.C. 10:90-6.3(a)(5). Thereafter, on January 8, 2018, Petitioner returned to the Agency to advise that her landlord had agreed to waive the past due rent for the months of July and August, 2017, and that was now only seeking past due rent for the months of September, October, and November 2017. See Initial Decision at 3; see also Exhibit P-5. However, on January 8, 2018, the Agency again denied Petitioner EA benefits on the basis that her rent was over the FMR for Essex County. See Initial Decision at 3; see also Division of Family Development Instruction ("DFDI") 17-09-05. Petitioner appealed and a hearing was scheduled for February 9, 2018. See Initial Decision at 3, 5. At the time of that hearing, Petitioner advised the Agency that her landlord had agreed to reduce her past due rent as well as her future rent to \$1,025 per month, which was well below the \$1,082 per month FMR. *Ibid.*; see also Exhibit P-7, and DFDI 17-09-05. Based on that landlord agreement, on February 9, 2018, Petitioner and the Agency entered into a Settlement Agreement ("Settlement"), wherein the parties agreed that Petitioner would withdraw her request for a hearing, reapply for EA benefits, and provide a new lease to the Agency indicating the reduced monthly rental amount. See Initial Decision at 3-4; see also Exhibit P-1. Petitioner provided said new lease, but nevertheless, the Agency again denied Petitioner EA benefits contending that the payment of Petitioner's three-months back rent was not part of the Settlement, and that she was now six-months behind in her rent. See Initial Decision at 4; see also Exhibit P-7.

However, the ALJ found, and the parties confirmed, that although the February 9, 2018, Settlement is silent as to the payment of three months of back rent, both Petitioner and the Agency had agreed that the Agency would grant Petitioner retroactive rent for September, October, and November, 2017, as well as EA benefits in the form of temporary rental assistance ("TRA") for subsequent monthly rent, once Petitioner supplied the revised/new lease and a new EA benefits application. See Initial Decision at 5-6; see also Exhibit P-1. The ALJ also found that Petitioner complied with the Settlement by submitting a revised/new copy of her lease and reapplying for EA benefits. See Initial Decision at 6; see also Exhibit P-1. Based on the foregoing, the ALJ concluded that the Agency's denial of EA/TRA benefits was improper



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and must be reversed. See Initial Decision at 6; see also N.J.A.C. 10:90-6.1(c), -6.3(a)(5), and -9.16(c) (stating that, "[i]f the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties"). I agree.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

MAR - 6 2010

Natasha Johnson

Director

