



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 09114-18 S.D.

AGENCY DKT. NO. C606831007 (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 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 July 17, 2018, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open until July 25, 2018, for the parties to submit additional documentation for consideration, and then closed on that date. On August 3, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on August 7, 2018.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination.

N.J.A.C. 10:90-6.3(a)(7) states, in pertinent part, that "[t]he Agency may authorize [Temporary Rental Assistance] ("TRA") when the total cost of housing inclusive of basic utilities is equal to or below the current [FMR], as established by the United States Department of Housing and Urban Development, for the county of residence."

Here, the record reflects that on May 22, 2018, the Agency granted Petitioner EA benefits in the form of a security deposit, first month's rent, TRA and furniture. See Exhibit P-4. Based on the Agency's approval, Petitioner moved into the apartment. See Initial Decision at 3. About a month later, on June 21, 2018, the Agency issued a second notification, this time denying Petitioner EA benefits, without citing additional information, and ordering Petitioner to move out within nine days of the issuance of the denial. See Initial Decision at 8; see also Exhibit R-7. The Agency noted that factoring in utility costs, Petitioner's rental of \$1500 per month would be above FMR for a two-bedroom rental. See Initial Decision at 4; see also Exhibit R-7. The record further shows that Petitioner's landlord called the Agency, and was told that the Agency could not cover the \$1500 monthly rent. See Initial Decision at 5. The landlord agreed to lower the rent to \$1350, but later received a call that the Agency would not cover that amount either. See Initial Decision at 5; see also Exhibit P-9. At the hearing, the Agency argued that the May 22, 2018, approval of EA benefits to Petitioner should not have been approved. See Initial Decision at 5-6. The Agency objected, for the first time, to the size of Petitioner's rental apartment, asserting that she qualifies for a two-bedroom only since her children are both girls under the age of five. See Initial Decision at 6. Petitioner's apartment, which had been listed as a three-bedroom by the landlord, was later certified by the landlord as a two-bedroom. See Initial Decision at 6; see also Exhibit P-14. By the end of the hearing, the Agency agreed to provide EA benefits in the form of TRA to Petitioner for a two-bedroom apartment with rent and utilities under \$1314, the FMR for a two-bedroom apartment in Essex County. See Initial Decision at 6; see also Exhibits



R-1, R-10. Post-hearing, the landlord revised the lease, agreeing to accept a monthly rent of \$1314 and provide utilities to Petitioner. See Initial Decision at 8; see also Exhibit P-14. However, even after the ALJ reached out to the Agency for approval of the apartment as a two-bedroom within FMR, the Agency refused to approve the apartment. See Initial Decision at 7-8. Based on the foregoing, the ALJ found that the Agency's actions in denying Petitioner EA benefits, after Petitioner rented the apartment based on the Agency's approval, caused Petitioner to be homeless in bad faith, and that the Agency's failure to reconsider its approval of the apartment for TRA, even after the landlord reduced the rent, was a sign of bad faith. See Initial Decision at 9; see also N.J.A.C. 10:90-6.3(a)(7). Accordingly, the ALJ reversed the Agency's June 21, 2018, denial of EA benefits to Petitioner. See Initial Decision at 9. I agree. Further, I find that Petitioner is eligible for prospective EA benefits, provided she continues to need EA benefits, and is otherwise eligible for same. See N.J.A.C. 10:90-6.1, et seq.

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

By way of further comment, the Agency is strongly reminded of its responsibilities in maintaining the integrity of case records, pursuant to N.J.A.C. 10:90-7.1. I find it concerning that the original Notification Form, presented by the Agency at the hearing, had been altered from the original Notification Form given to Petitioner. See Initial Decision at 6; compare Exhibits R-8, P-4.

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

Officially approved final version.

AUG 14 2018

Natasha Johnson
Director

