



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

PO BOX 716
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 **01068-19 C.R.**

AGENCY DKT. NO. **S475327001 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)**

Petitioner appeals from the Respondent Agency's denial of an extension of Emergency Assistance ("EA") benefits. The Agency denied Petitioner an extension of EA benefits, contending that he has sufficient income to pay his rent, and that no emergency existed. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for February 22, 2019, but was adjourned to allow Petitioner the opportunity to apply for an extension of EA benefits pursuant to recently promulgated State of New Jersey Senate Bill, No. 866 ("S866"), effective December 20, 2018. The matter was rescheduled for a hearing on March 1, 2019, before the Honorable Catherine A. Tuohy, Administrative Law Judge ("ALJ"), at which time the parties agreed to submit the case on the papers, placed a stipulation of fact on the record, and established a briefing schedule. Upon receipt of the parties' briefs and an additional stipulation of fact, the record closed on April 9, 2019. On April 17, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on April 30, 2019.

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 **REJECT** the ALJ's Initial Decision, and **AFFIRM** the Agency's determination.

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).

Further, the recipient must demonstrate that his/her shelter costs equal or exceed the total income available to his assistance unit. See N.J.A.C. 10:90-6.1(a)(1). As part of the determination of EA benefits eligibility, the Agency must evaluate all potential contributions of support to the household,



including income received by ineligible household members, particularly when determining the amount of temporary rental assistance ["TRA"]. See N.J.A.C. 10:90-6.1(c)(2).

Here, the record reflects that Petitioner receives \$231 per month in Work First New Jersey/General Assistance ("WFNJ/GA") benefits. See Initial Decision at 2. Petitioner's wife ("D.R.") receives \$903 per month in Supplemental Security Income ("SSI") benefits, and had received a retroactive SSI lump sum payment of \$27,035.51, paid out in installments every six months, beginning in July 2018. Id. at 3; see also Exhibit P-1, and "SOLQ Response Screen." Petitioner and D.R. are both listed on the apartment lease, with a monthly rent of \$900, including utilities. See Initial Decision at 2-3. The Agency initially denied Petitioner an extension of EA benefits on or about January 10, 2019, on the basis that Petitioner was unable to prove a hardship. Id. at 2. Thereafter, the Agency considered Petitioner for an extension of EA benefits pursuant to S866. Ibid. However, the Agency again denied Petitioner an extension of EA/TRA benefits on the basis that his total available household income exceeded his housing costs, and that no emergency existed. Id. at 3-4; see also "Notification Form," dated March 19, 2019, and N.J.A.C. 10:90-6.1(a)(1), -6.1(c), -6.1(c)(2), -6.3(a)(1)(ii). I agree.

Also, I find that although D.R.'s SSI benefits income is not taken into consideration for purposes of Petitioner's WFNJ/GA benefits eligibility, as a member of the marital household, her SSI benefits income is taken into consideration for purposes of Petitioner's EA benefits eligibility. See N.J.A.C. 10:90-2.7(b)(1)(ii), -6.1(a)(1), -6.1(c)(2). To determine otherwise would be to disregard the composition of a marital household which operates as one economic unit, and the financial support of one's spouse to that marital household. Further, as both Petitioner and D.R. are listed on the apartment lease, they are both liable for full payment of the monthly rent, and as D.R.'s SSI benefits income is sufficient to pay said rent, there appears to be no danger of homelessness or imminent homelessness at this time. See Initial Decision at 2. Moreover, Petitioner has not received EA/TRA benefits since December 2018, yet the record does not indicate that Petitioner is behind on his rent, or facing any threat of eviction. See GAAS Payment History. Based on the foregoing, I find that no emergency exists, and on that basis, I also agree with the Agency's denial of EA/TRA benefits to Petitioner. See "Notification Form," dated March 19, 2019.

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

Officially approved final version.

MAY 16 2019

Natasha Johnson
Director

