



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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TRENTON, NJ 08625-0716

NATASHA JOHNSON
Assistant Commissioner

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 00686-20 C.V.

AGENCY DKT. NO. C069029011 (MERCER COUNTY BOARD OF SOC. SVCS..)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of back rent. The Agency denied Petitioner EA benefits, contending that she had the available funds to pay her rent, and the capacity to prevent homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 21, 2020, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 22, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

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 REVERSE the Agency's determination, based on the discussion below.

In order to be eligible for EA benefits, the recipient must demonstrate that his/her shelter costs equal or exceed the total income available to his/her 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. See N.J.A.C. 10:90-6.1(c)(2). Further, those individuals who reside with, but are not members of, the assistance unit, are responsible for paying their per capita/pro rata share of the housing costs. See DFD Instruction ("DFDI") No. 08-5-4 at 10-11.

Here, the record reflects that Petitioner's assistance unit includes herself and her two children, that she receives \$599 per month in Work First New Jersey/Temporary Assistance for Needy Families benefits, and that her monthly rent is \$850. See Initial Decision at 2-3; see also Exhibit R-6. The record also reflects that Petitioner's adult, employed nephew resides in her household, is listed as a tenant on the lease, and that he contributes \$350 per month towards the rent. See Initial Decision at 2; see also Exhibits R-6, R-7, and R-9. At the time of her application for EA benefits, Petitioner owed back rent of \$425 for November 2019, \$850 for December 2019, and a \$50 late fee, and was facing eviction. See Initial Decision at 4-5; see also Exhibits R-2, R-15. Also at the time Petitioner applied for EA benefits,



she had saved enough money to pay for her December 2019, past due rent, but did not do so because she was advised by the Agency that she would be provided with EA benefits in the form of back rent, and that she should use the money she had saved to buy the furniture that she needed. See Initial Decision at 4. At the hearing, the Agency's representative acknowledged advising Petitioner as stated above. Id. at 4-5. Nevertheless, the Agency denied Petitioner EA benefits, contending that she had household funds available to pay her rent, and that she had the capacity to prevent her homelessness, but failed to do so. Id. at 5; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c)(3)(v). Based on the Agency's misrepresentations to Petitioner, the ALJ concluded that Petitioner did not have available funds, or the capacity, to plan to prevent her homelessness, and as such, the Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 6-7; see also Exhibit R-1. I agree. Accordingly, I direct the Agency to provide Petitioner with EA benefits in the form of back rent only, in the amount necessary to bring her rent current. See N.J.A.C. 10:90-6.3(a)(5). Also, Petitioner is advised that should she be in need of prospective EA benefits, she must reapply for EA benefits. The Initial Decision is modified to reflect this finding.

Further, the ALJ erroneously concluded that the Agency improperly included her nephew's gross earned income when determining Petitioner's EA benefits eligibility. See Initial Decision at 7-8. Rather, I find that in accordance with applicable regulatory authority, Petitioner's nephew's income must be taken into consideration for purposes of EA benefits eligibility, and that he is responsible for paying his pro rata share of the monthly rent, particularly because he is legally bound to do so as a signatory on the apartment lease. See N.J.A.C. 10:90-6.1(c)(2); see also Exhibit R-6, and DFDI No. 08-5-4 at 10-11. The Initial Decision is also modified to reflect this finding.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is REVERSED, as outlined above.

JAN 29 2020

Officially approved final version.

Natasha Johnson
Assistant Commissioner

