



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 891-15 J.B.

AGENCY DKT. NO. V041276 (CUMBERLAND COUNTY BD OF SOC SVCS.)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of a security deposit. The Agency denied Petitioner EA benefits because she had the resources and capacity to plan for her emergent situation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 11, 2015, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 25, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

No exceptions to the Initial Decision were received.

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

The purpose of EA for Supplemental Security Income ("SSI") recipients is to minimize the incidence of homelessness among the SSI recipient population. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1 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 in advance for substitute housing." See N.J.A.C. 10:90-6.1(c). Documentation must be presented to the Agency demonstrating that an eviction is pending or has already occurred. N.J.A.C. 10:90-6.3(a)(1)(ii).

Pursuant to N.J.A.C. 10:90-6.1(c)(2), "As part of the determination of eligibility for emergency assistance, the agency shall 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. 10:90-6.3(a)(5)) to be provided, and the specific kinds of preventative services which may be required by the individual, couple without dependent children or family with dependent children."

Pursuant to N.J.A.C. 6.1(c)(1)(ii), EA benefits shall be provided "[w]hen the assistance unit can demonstrate or signs a document, prepared by the county/agency, certifying that available funds, including liquid resources at N.J.A.C. 10:90-3.20, were exhausted on items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living. . . ." Items deemed appropriate, pursuant to N.J.A.C. 6.1(c)(1)(ii), include, but are not limited to, food, clothing, housing, attending the funeral of a family member, excessive unreimbursed medical expenses, or car payment or repairs.

In December 2014, Petitioner applied for EA benefits in the form of a security deposit in the amount of \$1,200. See Initial Decision at 2. The record indicates that the Agency denied Petitioner EA benefits because she had sufficient funds at the time to pay for her security deposit. *Ibid.* The Agency based its denial on the SSI Recipient Spend-Down Form ("Form"), completed and signed by the Petitioner, which indicated that her December 2014 income was \$1,999 and her expenses were \$298 (\$138 for phone and cable and \$160 for other), thereby leaving her \$1,701 with which to pay the \$1,200 security deposit. See Exhibit R-1 at 23. However, Petitioner testified that prior to her signing the lease for her apartment, she was living with her niece and had to pay for the right to stay with her, so she didn't have the funds to pay for the security deposit. See Initial Decision at 2. Additionally, Petitioner admitted she should have put those expenses on her Form. *Ibid.* Consequently, the ALJ found Petitioner's testimony credible, finding that she did not have sufficient funds to pay for her security deposit because she had to pay her niece for the right to live with her in the month of December, and reversed the Agency's decision. *Id.* at 2, 3.

Here, I must respectfully disagree with the ALJ and find that Petitioner's testimony is not supported by the evidence in the record, specifically, by the Form that she completed and signed. See Exhibit R-1 at 23; see also N.J.A.C. 1:11-18.6(c). It is clear that the Form fails to list any monies paid to Petitioner's niece in the month of December. *Ibid.* Further, at the time Petitioner completed this Form, she had the opportunity to provide the Agency with the list of funds she, purportedly, paid to her

niece for her living expenses in December 2014, but she did not. See Exhibit R-1 at 23. Further, her testimony at the hearing was devoid of facts relating to how much was paid to her niece for the month she lived with her. Therefore, I must reject the ALJ's conclusion, and affirm the Agency's denial of EA benefits.

By way of comment, I find this matter is moot, as Petitioner has lost the apartment because she did not pay the security deposit.

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

MAY 18 2015

Signed Copy on File

at DFD, BARA

Natasha Johnson
Director