



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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Elizabeth Connolly
Acting Commissioner

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

REMAND DECISION

OAL DKT. NO. HPW 16384-15 W.J.

AGENCY DKT. NO. C137950 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits in the form of temporary rental assistance ("TRA") contending that he failed to provide it with required documentation within the time requested. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 20, 2015, the Honorable Tiffany M. Williams, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 21, 2015, the ALJ issued an Initial Decision, which reversed the Agency's action.

Exceptions to the Initial Decision were filed by the Agency on October 27, 2015.

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, REVERSE the Agency's determination, and REMAND the matter back to the Agency to reevaluate Petitioner for EA eligibility based on the discussion below.

Here, the Agency denied Petitioner EA benefits on June 30, 2015, contending that he failed to provide it with the requested Certificate of Habitability ("Certificate") for his new apartment, by the required date of June 15, 2015. See Initial Decision at 3. However, the ALJ found that it was through no fault of Petitioner that he did not get the Certificate to the Agency, as its issuance was delayed until September 25, 2015,

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at which time Petitioner provided it to the Agency. *Id.* at 4. Therefore, the ALJ found that the Agency improperly denied Petitioner EA benefits, and ordered the Agency to provide him with TRA, beginning October 1, 2015. Although I agree with the ALJ's finding regarding the Agency's denial on the basis that Petitioner failed to provide it with the requested Certificate, I respectfully disagree with her order directing the Agency to provide Petitioner with EA benefits, for the following reasons.

Specifically, on April 24, 2015, this office issued a Final Agency Decision ("FAD") wherein we directed the Agency to provide Petitioner with five months back rent, contingent upon him providing the Agency with proof that his apartment included utilities, and was equal to or less than, the Fair Market Rent ("FMR") for Essex County. See Exhibit R-5 at 3. Further, in pertinent part, the prior FAD directed the Agency to pay Petitioner's prospective rent, provided he was otherwise eligible for EA pursuant to N.J.A.C. 10:90-6.1. *Ibid.* Here, the Agency erroneously acknowledged that this prior FAD mandated that Petitioner was eligible for TRA. See Initial Decision at 5. Moreover, the prior FAD was based on Petitioner's circumstances as they stood over six months ago.

Now, Petitioner is no longer in his previous apartment, needing five months of past due rent. Rather, he is seeking prospective TRA for a new apartment which requires him to establish EA eligibility, pursuant to N.J.A.C. 10:90-6.1. Including, but not necessarily limited to, Petitioner providing proof that his income is equal to, or less than, the cost of his apartment, and proof that the total cost, including utilities, of his new apartment does not exceed the FMR for Essex County. See N.J.A.C. 10:90-6.1(a)(1), and -6.3(a)(7)(i)(1). The aforementioned requirements were addressed in the April 24, 2015, FAD as contingencies for EA eligibility, yet I see no indication in the record that Petitioner has met these eligibility requirements. See Exhibit R-5 at 4. Therefore, I am remanding the matter back to the Agency to reevaluate Petitioner for EA eligibility on an expedited basis.

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

Accordingly, the Initial Decision is REJECTED, the Agency's action is REVERSED, and the matter is REMANDED back to the Agency based on the discussion above.

Signed Copy on File

at DFD, BARA

NOV 06 2015

Natasha Johnson
Director