



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716
TRENTON, NJ 08625-0716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

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 12237-18 P.L.

AGENCY DKT. NO. C139865007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of back utilities. The Agency denied Petitioner EA benefits contending that she had the capacity to pay her utilities, but failed to do so, thereby causing her own emergency. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 28, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 29, 2018, 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, as discussed below.

Here, the record reflects that Petitioner resides in subsidized housing with her minor granddaughter, and that she is current on her rent. See Initial Decision at 2, 5. However, despite utility assistance from a non-profit organization and the Universal Service Fund, Petitioner testified that she was unable to pay her utilities due to insufficient monthly income of \$262, which after payment of the \$150 monthly rent, leaves \$112 in disposable income. Id. at 2-4; see also Exhibit R-2. Petitioner currently owes \$504 in back utilities, and the utility company will accept \$307.46 to avoid shutoff of service. See Initial Decision at 2, 4; see also Exhibits P-1, R-2, R-3. The ALJ found that Petitioner is trying to improve her situation by seeking employment, by seeking to enforce a child support order against her granddaughter's father, and by seeking additional child support from her granddaughter's mother. See Initial Decision at 5. The ALJ also found that Petitioner did not have sufficient funds to pay her utilities, taking into account her other necessary expenses; that she had not received EA benefits for utility payments in the past; that she had taken reasonable steps by seeking out and accepting utility assistance; and that if her utilities are shut off, her subsidized housing will become uninhabitable, and she may face imminent homelessness. See Initial Decision at 5-6. Based on the foregoing, the ALJ concluded that Petitioner



did not cause her own emergency, and that she is eligible for EA benefits in the form of back utilities, plus extended EA benefits as necessary to support this payment of back utilities. Id. at 6. Accordingly, the ALJ reversed the Agency's denial of EA benefits to Petitioner. Ibid.; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c), -6.3(a)(5).

While I agree with the ALJ that Petitioner be granted EA benefits in the form of back utilities, I find that the Agency shall provide Petitioner with EA benefits in an amount necessary to bring her utilities current only, and that should Petitioner need EA benefits for future utility payments, that she must reapply for such benefits. See Initial Decision at 6. Further, I find that Petitioner herself is ineligible for EA benefits because she is not a Work First New Jersey ("WFNJ") benefits recipient or a Supplemental Security Income recipient. See Initial Decision at 2; see also N.J.A.C. 10:90-6.2(a). However, because Petitioner's household includes a child who receives WFNJ/Temporary Assistance for Needy Families ("TANF") benefits, EA benefits in this case are being provided on behalf of the grandchild, and Petitioner is deemed to be a "non-needy parent-person" in this instance, who will benefit from the granting of same. See N.J.A.C. 10:90-6.1(e); see also DFD Instruction 08-5-4 at 13. The Initial Decision is modified to reflect this finding.

By way of comment, it is unclear from the record presented why Petitioner herself is not also receiving WFNJ/TANF benefits.

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

Officially approved final version.

SEP 06 2018

Natasha Johnson
Director

