



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 2895-15 C.J.

AGENCY DKT. NO. GA582119 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's delayed determination and denial of Work First New Jersey/General Assistance ("WFNJ/GA") and Emergency Assistance ("EA") benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 3, 2015, the Honorable Joan Bedrin Murray, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 4, 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 ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I MODIFY the ALJ's Initial Decision and REVERSE the Agency's determination.

It is anticipated the Agency will accept, process, and recommend action on applications for WFNJ cash benefits within 30 days. N.J.A.C. 10:90-1.5(a). If the Agency does not timely determine an application, through no fault of the applicant, than the Agency shall act on the application in accordance with the immediate need provisions at N.J.A.C. 10:90-1.3(a)(1). N.J.A.C. 10:90-1.4(a). "Immediate need" means that an assistance unit appearing to meet all other WFNJ program eligibility requirements "lacks shelter or is at imminent risk of losing shelter, essential utilities, or has no food or insufficient food for unit members' immediate needs, or lacks

minimal clothing to protect their health and safety. In those situations where no other appropriate services are available to meet the needs of the assistance unit, a cash assistance benefit shall be provided but shall not exceed the amount of the cash assistance payment level for the appropriate eligible assistance unit size for that period." Ibid. Stated otherwise, the failure of the Agency to act promptly and timely is not itself a basis to deny or delay the issuance of WFNJ benefits. N.J.A.C. 10:90-1.5(a).

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on the path to self-sufficiency. 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(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 in advance for substitute housing." 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).

N.J.A.C. 10:90-6.3(a)(7) states in pertinent part, "The Agency may authorize [Temporary Rental Assistance] TRA when the total cost of housing inclusive of basic utilities is equal to or below the current Fair Market Rent ("FMR") .... Amounts in excess of the current FMR will require prior approval and authorization of subsidy level by DFD."

N.J.A.C. 10:90-6.3(a)(5) provides, in pertinent part, that payment shall be authorized up to any three calendar months of retroactive rental payments if it will prevent actual eviction or foreclosure. Payment for more than three calendar months of retroactive rental payments shall be made only under extraordinary circumstances subject to authorization by DFD.

On January 8, 2015, Petitioner applied for WFNJ/GA and EA benefits, and completed 28 days of an employment-related activity (although it is not clear from the record on what date his work activity was completed). See Initial Decision at 2. However, it was not until February 27, 2015, during Petitioner's second visit to the Agency for status of his application, that the Agency advised him that he had been denied WFNJ/GA and EA benefits. Id. at 2. Further, the record indicates that from the time Petitioner applied for WFNJ/GA and EA, and the time he was denied, there was no communication from the Agency indicating that it required any additional documentation in support of his application. Ibid. Notably, at the time of the hearing, the Agency could not provide the court with a copy of the notice denying Petitioner's application, nor any letter requesting additional documentation needed to determine eligibility. Id. at 3. Accordingly, I find that there is sufficient credible evidence to support the ALJ's finding that Petitioner had submitted all necessary paperwork and the Agency's delay in processing his application was unwarranted.

Based on the foregoing, I concur with the ALJ that Petitioner is eligible for retroactive WFNJ/GA benefits; however, such retroactive eligibility relates, not to the date of his application, as stated by the ALJ, but rather to the date he completed his WFNJ work requirement. N.J.A.C. 10:90-1.2(f)(8). Therefore, I modify the Initial Decision to the extent it directs the Agency to grant WFNJ/GA benefits retroactive to the date Petitioner completed his twenty-eight day work activity.

Additionally, at the time Petitioner applied for EA benefits, in January 2015, he was three months behind in his rent, however there is no documentation in the record demonstrating that an eviction was pending or had already occurred at the time he applied for EA benefits. See Initial Decision at 3. This documentation is required for determining EA eligibility. See N.J.A.C. 10:90- 6.3(a)(1)(ii). Further, the record is devoid of any information regarding whether Petitioner's total cost of housing, inclusive of basic utilities, is equal to or below the current FMR for Essex County. N.J.A.C. 10:90-6.3(a)(1)(ii). This information is required to determine eligibility for TRA. Based on this lack of essential information, I must modify the ALJ's decision, granting Petitioner retroactive rent for the months of November and December 2014, and January, February and March 2015. See Initial Decision at 4.

Specifically, I find it to be premature to pay Petitioner five months of back rent at this time. To elaborate, if it turns out that Petitioner's apartment is above the FMR for Essex County, he will be ineligible for further TRA, which may result in his apartment being unaffordable for him, and then, quite possibly, he ends up in the same position of imminent homelessness for non-payment of rent. This would only be a waste of valuable resources.

However, as Petitioner is now imminently homeless, see Exhibit P-3, the Agency is directed to pay Petitioner retroactive rent for the months of November and December 2014, and January, February and March 2015, contingent upon his rent meeting the FMR criteria for Essex County. See N.J.A.C. 10:90-6.3(a)(7); see also DFD Instruction No. 14-10-01. Additionally, the Agency is to consider Petitioner for prospective TRA, provided he continues to need EA benefits and is otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1.

By way of comment, the Agency is reminded of its responsibilities in representation and presentation of a matter at a plenary hearing before an ALJ, pursuant to N.J.A.C. 10:90-9.12(b).

Accordingly, the Initial Decision is MODIFIED and the Agency's action REVERSED.

*Signed Copy on File*  
at DFD, BARA

MAR 20 2015

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Jeanette Page-Hawkins  
Director