



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 10620-14 C.Y.

AGENCY DKT. NO. V520927 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 28, 2014, the Honorable James A. Geraghty, Administrative Law Judge ("ALJ"), held a plenary hearing, heard testimony and admitted documents. On August 29, 2014, the ALJ issued an Initial Decision which affirmed the Agency determination.

Petitioner submitted exceptions on September 10, 2014.

As the Director of the Division of Family Development, I independently reviewed the record and hereby ADOPT the Initial Decision and AFFIRM the Agency determination.

Petitioner receives Supplemental Security Income ("SSI"), Medicaid benefits, a pension and child support. Previously living in a shelter for a year with no required contribution, Petitioner intends to live with her employed son. Petitioner seeks a security deposit and first month's rent for a two-bedroom apartment.

Total countable income for Petitioner and her son is significantly greater than the applicable fair market rent ("FMR") for a two-bedroom apartment. N.J.A.C. 10:90-6.1(c)(2). Petitioner's countable income is roughly equivalent to the FMR for an efficiency apartment.

The Agency contends Petitioner is neither homeless nor imminently homeless, and

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had the capacity to plan for substitute housing. Petitioner contends she is imminently homeless, her countable income is over-stated because she does not receive child support, she in part exhausted her countable income supporting other shelter residents, she has a demonstrated functional incapacity and the Agency should not have considered her son's income.

Only WFNJ recipients, including those determined eligible for WFNJ benefits based upon immediate need, and SSI recipients are eligible for EA. N.J.A.C. 10:90-6.2.

EA is available where 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." N.J.A.C. 10:90-6.1(c).

There is no document evidence Petitioner is homeless or imminently homeless. N.J.A.C. 10:90-6.3(a)(1)(ii). Nevertheless, I note the exceptions include an eviction notice signed on the same date by the same individual who provided a notarized statement to the Agency, in evidence, that he paid child support to Petitioner. Under the circumstances, I will assume Petitioner is imminently homeless but correspondingly decline to reject the ALJ's finding Petitioner received child support, itself based upon an assessment of witness credibility.

There is sufficient credible evidence Petitioner had the realistic capacity to plan for substitute housing. For at least the previous nine months, and likely longer, Petitioner's total countable income was nearly \$1,000.00. Although Petitioner paid nothing for shelter for more than a year, there is no evidence she saved any money or otherwise documented exhaustion of available funds on items deemed "appropriate, necessary or reasonable for decent living and that such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii). I therefore reject petitioner's unsubstantiated contention she in part exhausted available funds to support other shelter residents.

Petitioner produced no expert evidence to support the contention she has a functional incapacity that prevented her from planning for or securing substitute housing. N.J.A.C. 10:90-6.1(c)(1)(iii). I note in this regard Petitioner's statement she spent a significant part of her countable income on support for third-persons, and that she had no apparent difficulty identifying substitute housing.

The Agency appropriately considered the income of Petitioner's son given that Petitioner seeks EA for a two-bedroom apartment, to which she is not otherwise entitled and which greatly exceeds her countable income. N.J.A.C. 10:90-6.1(c)(2); -6.3(a)(1).

For the foregoing reasons, I ADOPT the Initial Decision and AFFIRM the Agency determination.

SEP 11 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director