



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
Director

Tel. (609) 588-2000

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 10616-14 G.K.

AGENCY DKT. NO. C317503 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of his application for Emergency Assistance ("EA") benefits. The Agency denied Petitioner's application because his housing is affordable based on his monthly income. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 27, 2014, the Honorable Joan Bedrin Murray, Administrative Law Judge ("ALJ"), held a plenary hearing and took testimony. On August 28, 2014, the ALJ issued her Initial Decision affirming the Agency determination.

No exceptions to the Initial Decision were filed.

As Director of the Division of Family Development, Department of Human Services, I have reviewed the record for this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I hereby MODIFY the ALJ's Initial Decision as follows.

The purpose of EA is to meet the emergent needs of Work First New Jersey ("WFNJ") recipients, so that recipients shall not be prevented from complying with the work requirement due to disruptions caused by homelessness and related emergencies. 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 relevant 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.

The EA applicant must be a WFNJ recipient or a Supplemental Security Income ("SSI") applicant/recipient who is permanently disabled, facing imminent homelessness and otherwise meets the criteria for EA benefits as set forth at N.J.A.C. 10:90-6.1, including an evaluation of all support available to the household and whether his/her income exceeds his/her shelter costs. See N.J.A.C. 10:90-6.1(a)(1), 6.1(c)(2) and 6.10(a).

A lack of realistic capacity to engage in advance planning exists when the assistance unit can demonstrate or signs a document certifying that available funds 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. In addition to expenditures for food, clothing and housing, other appropriate items include, but are not limited to, expenditures for a family emergency, such as attending the funeral of a family member, excessive unreimbursed medical expenses or car payments/repairs. N.J.A.C.10:90-6.1(c)(1)(ii).

Here, Petitioner receives SSI in the amount of \$752.00 per month. He resides in subsidized housing with a monthly rent of \$228.00, and he is 10 months behind in his rent. Petitioner testified that he spent his money on cigarettes and lottery tickets. Petitioner further testified that the Agency had recommended that he obtain a payee.

While I agree with the ALJ's conclusion that the Petitioner's monthly income is sufficient to pay his rent, and that Petitioner's expenditures were not on items deemed appropriate, necessary or reasonable for decent living, I am modifying the Initial Decision based on the following. Petitioner currently resides in subsidized housing. He receives \$752.00 in SSI benefits and his portion of rent is only \$228.00. Thus, the Petitioner resides in permanent housing that is affordable to him based upon his current income. If Petitioner were to lose his subsidized housing, it is unlikely that he will be able to secure similar affordable housing.

As such, if the Petitioner pays two months of his back rent out of his SSI payment (\$456.00) and agrees to obtain a protective payee for his SSI benefits to ensure that his rent will be paid going forward, the Agency shall issue EA in the form of back rent for the remaining six months owed. The Agency shall assist the Petitioner in obtaining a protective payee in accordance with N.J.A.C. 10:90-3.23(d). If the Petitioner does not agree to pay two months of rent with his SSI benefits and to obtain a protective payee, the Agency's denial of EA shall be affirmed.

Accordingly, the Agency action and the ALJ's Initial Decision are MODIFIED.

Signed Copy on File
at DFD, BARA

SEP 11 2014

Jeanette Page-Hawkins
Director