



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 15680-14 J.S.

AGENCY DKT. NO. GA557945 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied EA benefits contending that Petitioner had the realistic capacity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On December 12, 2014, the Honorable James A. Geraghty, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 15, 2014, the ALJ issued an Initial Decision which reversed the Agency determination.

Neither party submitted exceptions.

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

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 a path to self-sufficiency. N.J.A.C. 10:90-6.1(a).

EA is available when there has been "an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homeless due to circumstances beyond their control or in the absence of a realistic capacity to plan in advance for substitute housing ... and the [Agency] determines the provision of [EA] is necessary for health and safety." N.J.A.C. 10:90-6.1(c).

The record indicates that Petitioner moved to New Jersey from Boston, but is silent as

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to when exactly that move occurred and whether Petitioner had reasonable plans for employment and housing. The record is also silent as to when Petitioner was approved to receive Work First New Jersey/General Assistance ("WFNJ/GA") benefits. What is clear from the record is that in mid-September 2014, Petitioner and a third-party signed a lease agreement for a one-bedroom apartment. See Exhibit R-2. The third-party does not live in the apartment. See Initial Decision at 2. There is no evidence in the record regarding who paid the security deposit and the majority of the first month's rent. See Exhibit R-2.

The record further indicates Petitioner's spouse does not qualify to receive WFNJ benefits as she has not been a lawful permanent resident for 5 years. N.J.A.C. 10:90-2.10(b)(2)(i). Petitioner's spouse, who had been in this country on a student visa, had previously received financial support from her parents overseas until early August 2014, but that support terminated after her marriage to Petitioner due to their disapproval of the marriage. See Exhibit P-1. The record further states that Petitioner has not worked since 2010. See Initial Decision at 2.

As such, by mid-September 2014 when Petitioner rented his apartment, he certainly was aware that the couple had no source of income to afford the apartment that he had leased. Likewise, there is no evidence that Petitioner reasonably believed a third-party tenant, who was not living in the apartment, would pay most or all of the rent on behalf of Petitioner. Petitioner's rent is in arrears since late September 2014, thereby evidencing that Petitioner has paid no rent since moving into the apartment. See Exhibit R-3.

The ALJ found Petitioner was imminently homeless based upon a filed action in Landlord/Tenant court and concluded that Petitioner should be eligible for EA benefits. See Initial Decision at 2-3.

I disagree with this conclusion. As the ALJ himself states, "[T]he OAL notes the alternatives [that would have been] available to him, for example, postponing marriage or working rather than pursuing a training program [to become a personal trainer]." I concur with the Agency that Petitioner certainly had a realistic capacity to plan and that he signed a lease agreement for an apartment he clearly knew he had no means to be able to pay for.

Accordingly, I hereby REJECT the Initial Decision and AFFIRM the Agency determination.

Signed Copy on File
at DFD, BARA

JAN - 7 2015

Jeanette Page-Hawkins
Director