



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

REMAND DECISION

OAL DKT. NO. HPW 12857-14 L.S.

AGENCY DKT. NO. C256885 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied the Petitioner's EA request because he is not homeless or imminently homeless. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 27, 2014, the Honorable James A. Geraghty, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On November 17, 2014, the ALJ issued an Initial Decision, which affirmed the Agency's action.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby REJECT the ALJ's Initial Decision, REVERSE the Agency's determination and REMAND to the Agency.

The purpose of EA for Supplemental Security Income ("SSI") recipients is to minimize the incidence of homelessness among the SSI recipient population. 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 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." See N.J.A.C. 10:90-6.1(c). 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). Such documentation

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may be in the form of a letter from a landlord or other person, such as a family member or relative, serving in such a capacity. Ibid.

A review of the record reveals that the Petitioner receives SSI and Retirement Survivors Disability Insurance ("RSDI") benefits monthly. See Exhibit R-4. The record further shows that Petitioner was evicted in August 2014. See Initial Decision at 3; see also Exhibit R-7. Petitioner then moved in with his daughter. See Initial Decision at 3; see also Exhibit P-1. Petitioner is no longer able to live with his daughter because he is not on the lease and there is no room. See Initial Decision at 2; see also Exhibit P-1.

The ALJ in this matter determined that the Petitioner "presented no documentary evidence of a pending eviction which indicates that there is evidence that he is in danger of imminent homelessness," that "he voluntarily abandoned housing to live with his daughter," and was therefore not eligible for EA benefits. See Initial Decision at 3. I do not agree with the ALJ's finding. A review of the record shows that Petitioner was receiving EA benefits in June 2014. See Exhibit R-2. In early July 2014, Petitioner was granted temporary custody of his three grandchildren and it was determined that his one-bedroom apartment was not sufficient for the household's needs. See Exhibit R-11. The Division of Child Protection and Permanency ("DCP&P"), f/k/a DYFS, requested that the Agency approve Petitioner for a larger apartment. Ibid. It would appear that the Agency did not respond to that request, stopped paying Petitioner's EA, and two months later Petitioner was facing eviction and was forced to vacate his prior apartment. See Exhibit R-7. It was at that point that Petitioner moved in with his daughter and now can no longer stay with her. Accordingly, I find that Petitioner clearly did not abandon his prior apartment and is now facing imminent homelessness.

Further, the ALJ determined that even if the Petitioner were in imminent danger of homelessness, he would not qualify for EA benefits because he had exhausted his lifetime limit and available extensions including 24 months under the Housing Assistance Program ("HAP") pilot. See Initial Decision at 3. From a review of the record, it would appear that the Petitioner has received thirty-one months of EA benefits. See Exhibits R-3, R-4. I note that the record shows four security deposit payments and one furniture voucher payment. Ibid. These items may not be counted towards the maximum lifetime EA limit. See N.J.A.C. 10:90-6.4(a)(1) and N.J.A.C. 10:90-6.10(d).

Furthermore, the evidence shows that Petitioner received 9 months of EA in 2013 and 2014, but prior to that time the Petitioner had not received EA since 2005. See Exhibits R-2 and R-3. As HAP became effective July 2, 2012, the only EA Petitioner could have received under HAP were those payments made in 2013-2014. Clearly, those payments do not establish that Petitioner has exhausted all possible EA benefits under HAP. Accordingly, I disagree with the ALJ's denial of

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EA assistance and conclude that Petitioner may qualify for additional EA under HAP and therefore remand to the Agency for further handling as outlined above. See N.J.A.C. 10:90-6.10.

As it appears that Petitioner's family may have an open case with DCP&P, a copy of the Initial and Final Decisions shall be forwarded to DCP&P to ensure the health, safety, and welfare of Petitioner's grandchild(ren).

Accordingly, the Initial Decision is REJECTED and the Agency determination REVERSED and REMANDED to the Agency for further evaluation and handling as outlined above.

**JAN - 8 2015**

*Signed Copy on File*  
at DFD, BARA

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Jeanette Page-Hawkins  
Director