



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 14203-15 P.W.

AGENCY DKT. NO. C178118 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of past due utility payments. The Agency denied Petitioner EA benefits contending that she was more than six months past due on her utility payments, she was receiving utility assistance from the Universal Service Fund ("USF"), and she failed to take reasonable steps to avoid her emergency situation by not paying her utility bill on a monthly basis. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 21, 2015, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 9, 2015, the ALJ issued an Initial Decision, reversing the Agency's determination.

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 REJECT the ALJ's Initial Decision and AFFIRM the Agency's determination.

Pursuant to N.J.A.C. 10:90-6.3(a)(5), EA benefits may be authorized for six months of retroactive utility payments in order to prevent the loss of utilities or make utilities operable.

N.J.A.C. 10:90-6.3(a)(5)(i) provides that payment for more than six months of retroactive utility payments shall be made only under extraordinary circumstances subject to authorization by DFD. Extraordinary circumstances include, but are not limited to, loss of employment, imminent danger of the breakup of the family unit, risk of imminent physical danger, abuse or neglect of a member of the assistance unit, risk of serious harm to persons who are medically diagnosed as physically/mentally unable to care for themselves, or the request for EA arises out of a substantial loss of shelter, food, clothing household furnishings or essential utilities incurred as a result of a natural disaster. N.J.A.C. 10:90-6.4(b)(1)(i-v).

The record shows that Petitioner owes more than six months of back utility payments. See Initial Decision at 2. There has been no showing that Petitioner has experienced any extraordinary circumstances that would warrant paying more than six months of back utility bills on her behalf, other than her testimony that her monthly income is insufficient to pay her electric bill on a monthly basis. *Id.* at 3. Additionally, I find that the payment of only six months of Petitioner's 12 months past due utility bill would not prevent the loss of her utilities, particularly when she contends that her monthly income is not sufficient to pay her monthly utility bill. *Ibid.*; see also N.J.A.C. 10:90-6.3(a)(5)(i). Accordingly, I find that the Agency properly denied Petitioner EA benefits in the form of retroactive utility payments.

By way of comment, the ALJ's interpretation of N.J.A.C. 10:90-6.4(a)(2) and N.J.A.C. 10:90-6.3(a)(5) is misplaced. The plain language of N.J.A.C. 10:90-6.3(a)(5) makes it clear that EA payments shall be authorized for up to six calendar months of retroactive utility payments. Any additional payments for more than six calendar months are only authorized under extraordinary circumstances. See N.J.A.C. 10:90-6.3(a)(5)(i). Furthermore, pursuant to N.J.A.C. 10:90-6.4(a)(2), each two-month payment of retroactive utilities is counted as one EA payment unit, for the purpose of calculating EA benefit time limits. Accordingly, the most that Petitioner would have been eligible to receive, was six months of back utilities (equivalent to three months/units of EA benefits), and not 12 months, as opined by the ALJ.

By way of further comment, the Agency shall refer the Petitioner to any agencies or resources which may assist her with her utility needs.

Accordingly, the Initial Decision is REJECTED and the Agency's action is AFFIRMED.

DEC 31 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director