



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 16489-14 T.V.

AGENCY DKT. NO. C618082 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Petitioner's request for an extension of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's request for an extension of EA benefits for failure to timely report income and for failure to timely apply for an extension of EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 18, 2014, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 19, 2014, the ALJ issued an Initial Decision, which reversed the Agency's action.

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 ADOPT the ALJ's Initial Decision and REVERSE the Agency's 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 in order to continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits the individual must have "an

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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." Documentation must be presented to the Agency demonstrating that an eviction is pending or has already occurred. Ibid.

N.J.A.C. 10:90-6.3(a)(5) provides, in pertinent part, that payment shall be authorized up to any three calendar months of retroactive rental payments if it will prevent actual eviction or foreclosure. Payment for more than three calendar months of retroactive rental payments shall be made only under extraordinary circumstances subject to authorization by DFD. Ibid.

Pursuant to N.J.A.C. 10:90-9.1(b), an Agency must provide both adequate and timely notice advising of a termination, denial or suspension of welfare benefits. Adequate notice is a written notice outlining the intended action and the reasons for the action. N.J.A.C. 10:90-9.1(a). Timely notice is defined as "a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action." N.J.A.C. 10:90-9.1(b)(1). When the Agency's decision adversely affects a benefits recipient, there cannot be a change to the recipient's benefits until 10 calendar days after the mailing date of the notice. N.J.A.C. 10:90-9.1(c).

The record indicates that an eviction complaint has been filed against Petitioner in Landlord/Tenant court for nonpayment of rent for the months of September, October and November 2014 with a hearing date scheduled for January 12, 2015. See Initial Decision at 2. Therefore, Petitioner is facing imminent homelessness.

At the hearing, Petitioner testified and provided documentation indicating that she became unemployed in November 2014 and was not eligible for unemployment. Ibid. Further, Petitioner testified, and the ALJ found credible, that she had never been notified that her EA benefits were terminating in September 2014 and that it was only when she found out about the eviction directly from her landlord that she became aware of that fact. Ibid. Additionally, the Agency provided no documentation at the hearing evidencing that notice, as required by N.J.A.C. 10:90-9.1(a), was provided to Petitioner. Ibid. Consequently, Petitioner applied for an EA extension when she became aware of the eviction complaint, and imminent homelessness became apparent. See N.J.A.C. 10:90-6.1(a). Accordingly, I concur with the ALJ that Petitioner timely applied for an EA extension.

In light of Petitioner's quickly approaching eviction hearing, and imminent homelessness, I direct the Agency to expedite this matter so as to avoid Petitioner's homelessness.

I note that the "failure to timely report income" was no longer a contested issue at the hearing. See Initial Decision at 2. As such, I did not address it here.

By way of comment, the Agency is reminded of its responsibility to provide timely and adequate notice pursuant to N.J.A.C. 10:90-9.1.

Accordingly, the Initial Decision is ADOPTED and the Agency's action REVERSED.

Signed Copy on File

at DFD, BARA

JAN 13 2015

Jeanette Page-Hawkins
Director