



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 14353-14 V.T.

AGENCY DKT. NO. C181844 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of back rent and imposition of a 6 month period of ineligibility. The Agency denied Petitioner's application for EA on the basis that Petitioner had the realistic capacity to plan in order to avoid her housing emergency. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 14, 2014, the Honorable Irene Jones, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents into evidence.

On November 17, 2014, the ALJ issued an Initial Decision reversing the Agency determination. The ALJ noted that Petitioner's testimony, as well as that of her boyfriend, W.W., indicated that Petitioner had moved in August 2014 to her present apartment, because her prior apartment was uninhabitable. See Initial Decision at 2. The father of Petitioner's children had promised to pay half of the rent at the new apartment, but did not live up to that promise. Ibid. Petitioner's boyfriend had previously paid Petitioner's rent, but was unable do so at the present time as he was not working at his regular part-time job, although he anticipated being back at that job after New Year's. Ibid. Finding Petitioner and her boyfriend's testimony to be credible and unrefuted by the Agency, the ALJ directed the Petitioner be granted EA in the form of back rent for October and November, and prospective temporary rental assistance for 6 months. See Initial Decision at 3.

Exceptions to the Initial Decision were filed by the Agency on November 20, 2014. The Agency asserted that Petitioner had not provided any documentation that her former apartment had been uninhabitable. See Exceptions at 1. The Agency

attached several documents to its Exceptions that had not been entered into evidence at the hearing before the ALJ.

As the Director of the Division of Family Development, Department of Human Services, I have considered the Initial Decision and following an independent review of the record, I concur with the ALJ's decision and hereby ADOPT the Initial Decision and REVERSE the Agency's determination to deny Petitioner's EA request. The six month period of ineligibility is also vacated.

Based upon a review of the record, it is unclear why the family is receiving only \$162 in Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. If only Petitioner's child is the WFNJ/TANF benefits recipient, the granting of EA benefits in such a case is permissible. As noted in DFDI 08-5-4 at 13, "While it is recognized that a non-needy parent-person will benefit from the EA provided by the agency on behalf of the eligible child, it is the child who is eligible for WFNJ benefits and, as such, EA shall be made available on behalf of the child when there is need in accordance with N.J.A.C. 10:90-6.1."

Additionally, I note that there is nothing in the record to establish that the rent for Petitioner's present apartment is over Fair Market Rent, see N.J.A.C. 10:90-6.3(a)(7), and as such, I find that the Agency's denial of EA benefits in this matter, as well as the imposition of the six month penalty, to be improper.

By way of comment, Petitioner will be eligible for 6 months of prospective EA benefits, as ordered by the ALJ, so long as she otherwise remains eligible in accordance with our regulations.

By way of further comment, the Agency is reminded that submission of documents with its Exceptions, which were not entered into evidence at the hearing before the ALJ, is not permitted. See N.J.A.C. 1:1-18.4(c). Moreover, the ALJ's findings of fact as to the credibility of lay witness testimony may not be rejected except under certain circumstances. See N.J.A.C. 1:1-18.6(c). In reviewing the record, I find nothing which would necessitate rejecting the ALJ's finding that both Petitioner and her boyfriend's testimony were credible as to the uninhabitable living conditions in the prior apartment.

Accordingly, the Initial Decision in this matter is ADOPTED and the Agency's action is hereby REVERSED.

DEC - 2 2014

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director