



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

TRENTON, NJ 08625-0716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
Lt. Governor

NATASHA JOHNSON
Assistant Commissioner

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STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **09057-24 C.F.**

AGENCY DKT. NO. **C714717007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") and, specifically, the imposition of a six-month period of ineligibility for EA/TRA benefits. The Agency denied Petitioner's application for EA/TRA benefits contending that she had sufficient funds available to secure housing, but failed to utilize those funds appropriately, thereby causing her own homelessness. Because Petitioner appealed, as to the imposition of the six-month period of EA ineligibility, the matter was transmitted to the Office of Administrative Law for a hearing. The matter was originally scheduled, on an emergent basis, for July 3, 2024, but due to the need for the gathering of additional evidence and the agreement of the parties that the matter did not meet the criteria for emergent relief, the matter was adjourned and the hearing recommenced on July 16, 2024. On July 16, 2024, the Honorable Matthew G. Miller, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open for the submission of additional evidence and argument and was then closed on August 2, 2024. On August 6, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) 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 to avoid their emergent situation. Further, in pertinent part, EA benefits shall not be provided for a period of six months when an applicant "had the available funds and the capacity to plan to avoid homelessness." N.J.A.C. 10:90-6.1(c)(3)(v).

The ALJ in this matter issued a very thorough and comprehensive Initial Decision, outlining the procedural history, and providing a detailed and well thought out analysis, applying law to fact. See Initial Decision at 2-15. By way of pertinent background, on September 8, 2023, Petitioner's landlord initiated an eviction action in the Superior Court and on December 20, 2023, a warrant for removal was issued by the court, and Petitioner vacated her apartment. See Initial Decision at 2; see also Exhibit C-1. On or before March 20, 2024, Petitioner applied for EA/TRA and was denied by the Agency on April 23, 2024, for failure to provide documentation. *Ibid.*; see also Exhibits R-4 and R-5.



On or about May 7, 2024, Petitioner received an award of Supplemental Security Income ("SSI") benefits. See Initial Decision at 3. Thereafter, on June 12, 2024, Petitioner applied for EA/TRA from the Agency, which denied her application on the same day, and led Petitioner to filing an application for an emergent fair hearing. *Ibid.*; see also Exhibits R-1 and R-6. Prior to a scheduled June 19, 2024 emergent hearing, Petitioner withdrew her appeal, however, following the withdrawal, Petitioner became aware of the imposition of the six-month disqualification period for EA/TRA benefits, which led to the current proceeding. *Ibid.*

Here, the ALJ found, and Petitioner admitted, that she received a lump sum payment from the Social Security Administration ("SSA") which included her attorney's fees, due to her legal counsel, in the amount of \$5,075.95, as well as retroactive SSI benefits for three months in the amount of \$2,922.75. *Ibid.*; see also Exhibit P-8. Beginning June 1, 2024, Petitioner began to receive her regular SSI benefit check on a monthly basis, in the amount of \$974.25. *Id.* The ALJ found, and Petitioner admitted, that she had utilized the lump sum SSI funds in the following manner: 1) payment of "child support" to the father of her two children, who is the custodial parent (approximately \$700); 2) payment for a storage unit (\$179 per month); 3) payment for a financed cellular phone, phone case and Air Pods; 4) payment for four to five nights at a hotel (approximately \$130 per night); 5) payment to persons with whom she occasionally stays (approximately \$500); and 6) payment towards her credit card in an attempt to raise her credit limit above 600 (\$500). See Initial Decision at 3-4; see also Exhibits P-1, P-2, P-3, P-4, P-5, P-9.

The Agency imposed the six-month EA ineligibility penalty based upon Petitioner's use of the \$2,922.75 of retroactive SSI benefits for payment towards non-housing related expenses which the Agency deemed to be unreasonable. See Initial Decision at 3-4. The Agency representative testified that, at the time of her EA application, Petitioner was unable to provide receipts for the use of the lump sum SSI funds and, due to the lack of such evidence, her application was denied. See Initial Decision at 6. After documentation was provided, the Agency determined that the use of the lump sum funds by Petitioner did not meet the legal standard for the reasonable use of funds when used for non-housing purposes. *Ibid.* The Agency contends that Petitioner could have prevented her own homelessness and that her use of the lump sum SSI funds for non-emergent reasons justified the denial of her EA application and the imposition of the six-month period of ineligibility for EA benefits. *Ibid.*

The ALJ in this matter focused upon the use of the lump sum SSI funds by Petitioner and considered whether or not the expenditures made by Petitioner were reasonable and could have prevented Petitioner from becoming homeless. See Initial Decision at 13-14. As to whether or not the funds could have prevented Petitioner's eviction, the ALJ found that Petitioner was evicted months prior to receiving the lump sum SSI payment and found Petitioner credible when she testified that a potential landlord would not rent to her unless she had a credit score of at least 600. *Ibid.*; see also Exhibit P-4. As to the other payments made using the SSI funds, the ALJ found that the payment to the father of Petitioner's children was appropriate, as the father supplied a letter that when Petitioner was employed, she would pay \$250 monthly in child support, making her payment proportional and appropriate. *Ibid.*; see also Exhibit P-1. The ALJ further found that payment to the persons she intermittently stayed with were reasonable and permissible under DFDI Instruction ("DFDI") 08-5-04, and N.J.A.C. 10:90-6.1(c)(1)(ii). *Ibid.*; see also Exhibits P-2, P-3. Next, the ALJ found that the payment towards the Petitioner's credit card bill was appropriate, necessary, and reasonable, as she explained her efforts to decrease her debt were intended to improve her credit score so she would be able to secure housing. *Ibid.*; see also Exhibit P-4.

The ALJ then focused upon the remaining expenses of the new cellular phone, phone case, screen protector, and Air Pods. Here, Petitioner testified that her phone had previously broken and she required a new phone to receive information regarding her benefits, as well as to conduct her affairs. See Initial Decision at 14. The ALJ provided a thorough examination of the phone store receipts, indicating that, when Petitioner purchased the phone on May 13, 2024, she paid only the sales tax (\$72.87) at the time of purchase and financed the phone for thirty-six months. *Ibid.*; see also Exhibit P-5. The ALJ concluded that the phone purchase, through monthly financing, and the costs paid for the phone cover and screen protector (a total of \$77.03) were reasonable, particularly because a phone is a practical necessity for a homeless individual. *Ibid.*

The ALJ did question the purchase of the Air Pods (\$266.55), as he noted that there are alternative, less expensive versions of ear buds which Petitioner could have purchased and utilized; however, focusing solely on the Air Pods expense, the ALJ concluded that the use of approximately 9% of the lump sum on this item, while "not ideal," was not necessarily unreasonable, nor a frivolous purchase. See Initial Decision at 14-15. Overall, the ALJ found that Petitioner was disciplined with the funds received from her SSI lump sum benefits, and believed that she expended the money within the language of N.J.A.C. 10:90-6.1, et seq. and the policy of DFDI 08-5-04, noting that the isolated spending on the Air Pods did not impact Petitioner's ability to obtain housing, and that the use of the funds for this item should not have resulted in the imposition of a six-month period of ineligibility for EA benefits. *Ibid.* Based upon the ALJ's comprehensive examination of the use of the funds by Petitioner as reasonable, the ALJ found that Petitioner had good cause for the lump sum monies expended, and that the Agency should not have denied Petitioner's EA application, upon receipt of



documented expenses, nor imposed a six-month ineligibility period. Ibid. Based on the foregoing, the ALJ reversed the Agency's decision to impose a six-month period of benefit disqualification pursuant to N.J.A.C. 10:90-6.1, et seq.

Based upon the factual findings made by the ALJ in this case, and also upon an independent review of the record before me, I find that the Petitioner's use of the lump sum SSI benefits received did not contribute to her homelessness, and that such expenditures were reasonable, such that the denial of Petitioner's EA/TRA benefits, including the six-month disqualification of eligibility for benefits, should be reversed. Accordingly, the adverse action notice of June 12, 2024, is hereby reversed in its totality and I direct that the Agency provide Petitioner with EA benefits on an expedited basis. The Initial Decision and the Agency's adverse action notice are both modified to reflect this finding. See Exhibit R-6; see also N.J.A.C. 10:90-6.1(c)(3)(v).

By way of comment, Petitioner is advised that the Agency "shall determine" the most appropriate form of emergency housing required to address the needs of an EA recipient, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1).

Accordingly, the Initial Decision in this matter is MODIFIED, the Agency's determination is hereby REVERSED, and the matter is REMANDED back to Agency for action, as outlined above.

Officially approved final version. August 14, 2024

Natasha Johnson
Assistant Commissioner

