



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

SARAH ADELMAN  
*Commissioner*

TAHESHA L. WAY  
*Lt. Governor*

TRENTON, NJ 08625-0716

NATASHA JOHNSON  
*Assistant Commissioner*

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 **07257-24 M.S.**

AGENCY DKT. NO. **C077891001 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"), including past due rent. The Agency denied Petitioner EA benefits, contending that he had the capacity to plan to avoid his emergent situation, but failed to do so by moving into housing with no realistic plan for affording the rent. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 29, 2024, the Honorable Kathleen M. Calemno, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record closed on August 8, 2024, after receiving closing summation briefs. On August 19, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by Legal Counsel, on behalf of the Agency, on September 10, 2024.

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 ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination.

EA benefits shall be granted when the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control, or when a lack of a realistic capacity to plan exists. See N.J.A.C. 10:90-6.1(c)(1)(i). In relevant part, a lack of a realistic capacity to plan exists when the assistance unit demonstrates functional incapacity, such as evidence of alcohol or drug abuse that would prevent them from planning for or securing housing. See N.J.A.C. 10:90-6.1(c)(iii).

Here, the ALJ in this matter issued a very thorough and comprehensive Initial Decision, outlining the procedural history, providing a detailed factual timeline, and rendering a well thought out analysis, applying law to fact. See Initial Decision at 2-8. Specifically, based on the facts of this particular case and Petitioner's credible testimony, the ALJ found that due to Petitioner's substance abuse history, at the time he had moved into his current sober living housing, he had no money, no means of support, and still required treatment, and as such, he lacked the realistic capacity to plan for securing permanent affordable housing. See Initial Decision at 4-6. Further, the ALJ found that Petitioner had relied upon his addiction counselor's recommendation that he move into said sober living housing, and apply for benefits thereafter. *Id.* at 4-5. Moreover, the ALJ found that Petitioner is seeking to escape addiction, still requires treatment, is addressing his employment issue, and is addressing his substance abuse issues in order to end his homelessness, but does not possess the means to overcome those obstacles without stable housing. *Ibid.*; see also Exhibit R-1 at 26-28. Of note, the record reflects that Petitioner's sober living housing rent is within the Fair Market Rent for Atlantic County. See Initial Decision at 6-7; see also Exhibit R-1 at 29, 33, and N.J.A.C. 10:90-6.3(a)(7)(i)(1), and DFD Informational Transmittal ("IT") No. 24-19. Based on the foregoing, the ALJ found Petitioner eligible for EA/TRA benefits, and therefore, concluded that the



Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 7-8; see also Exhibit R-1 at 1-4, and N.J.A.C. 10:90-6.1(c), -6.3(a)(1). Based on the particular circumstances of this case, I agree.

By way of comment, the Agency is directed to pay Petitioner's rental arrears in an amount to bring him current, and to provide him with prospective EA/TRA benefits, so long as he remains eligible for such benefits. See Exhibit R-1 at 33.

By way of further comment, as the record reflects that Petitioner has substance abuse issues, the Agency shall refer Petitioner to SAI/BHI for evaluation and treatment, if appropriate. See Initial Decision at 3; see also N.J.A.C. 10:90-6.1(c)(1)(iii), -6.6(a)(1)(iii)(7), and -18.1 et seq.

Also by way of comment, I have reviewed the Exceptions submitted on behalf of the Agency and find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

October 10, 2024

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Natasha Johnson

Assistant Commissioner

