



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT

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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 13425-19 V.P.

AGENCY DKT. NO. C275362009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that he had the capacity to plan to avoid his homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 26, 2019, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 26, 2019, 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, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

In order to be eligible for EA benefits, the assistance unit must be "in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan[.]" See N.J.A.C. 10:90-6.1(c). The lack of a realistic capacity to plan exists when the assistance unit can demonstrate that available funds were "exhausted on items deemed appropriate, necessary, or reasonable for decent living and such expenditures were made as a result of a significant occurrence or situation, or from meeting the expenses of daily living." See N.J.A.C. 10:90-6.1(c)(1)(ii). These expenses must be documented in the case record. *Ibid.*

Here, the record reflects that Petitioner and his three children had been living with his grandmother until June 8, 2019, when he was told to leave her residence due to overcrowding and neighbor complaints about noise. See Initial Decision at 3; see also "Grandmother's Letter" dated August 29, 2019. Thereafter, from June 8, 2019, through September 1, 2019, Petitioner and his children resided in a motel. See "Haiban Inn" receipt. The record indicates that Petitioner had paid for the motel with his income tax refund monies, and when those funds ran out, he applied for EA benefits on September 16, 2019. See Initial Decision at 3; see also "Haiban Inn Receipt," and "Federal Tax Return Summary 2018." The Agency denied Petitioner EA benefits, contending that he had the capacity to plan to avoid his emergency. See Initial Decision at 2; see also "Notification Form" dated September 16,



2019. However, Petitioner had provided documentation to show that he had spent his tax refund monies on motel housing for his family, which I find was necessary and appropriate, taking into consideration his sudden loss of housing. See Initial Decision at 3; see also "Grandmother's Letter" dated August 29, 2019, and "Haiban Inn" receipt. Therefore, I find that Petitioner lacked the capacity to plan, and as such, he is eligible for EA benefits. See N.J.A.C. 10:90-6.1(c)(1)(ii). Based on the foregoing, I concur with the ALJ's conclusion that that Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 3; see also "Notification Form" dated September 16, 2019.

However, the ALJ ordered the Agency to provide Petitioner with six months of EA benefits in the form of hotel placement in Jersey City, Hudson County. See Initial Decision at 4. I respectfully disagree. Rather, I find that it is the Agency who shall determine the appropriate form of EA benefits required to meet Petitioner's needs. See N.J.A.C. 10:90-6.3(a)(1). Also, I find that Petitioner shall be provided with EA benefits so long as he remains otherwise eligible for same. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1 et seq. The Initial Decision is modified to reflect these findings.

By way of comment, Petitioner is advised to contact the Agency regarding his need for child care services. See Initial Decision at 3-4.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is REVERSED, as outlined above.

OCT - 3 2019

Officially approved final version.

Natasha Johnson
Assistant Commissioner

