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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 17658-24 J.H.

AGENCY DKT. NO. C106140003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's denial of an extension of EA benefits pursuant to the Emergency Assistance for Specific Groups ("EASG") program of Emergency Assistance ("EA") benefits, and the consequent termination of her EA benefits. The Agency denied Petitioner an EASG extension of EA benefits, contending that her household income exceeded her housing costs. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 20, 2024, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On December 23, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination and remanding the matter to the Agency.

Exceptions to the Initial Decision were filed by the Agency on December 26, 2024, and also by Petitioner on December 26, 2024.

As Assistant Commissioner, 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 AFFIRM the Agency's determination, based on the discussion below.

State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018 ("S866"), now codified at N.J.S.A. 44:10-51(a)(3), also known as Emergency Assistance for Specific Groups ("EASG"), and recently extended pursuant to State of New Jersey Assembly Bill, No. 5549, extends EA benefits eligibility for certain categories of individuals, including, but not limited to WFNJ recipients who are permanently disabled, as documented by a twelve (12) month MED-1 Form, and Supplemental Security Income ("SSI") benefits recipients. Additionally, in order to be eligible for an EASG extension of EA benefits, persons applying for EASG must also meet all other EA benefits program eligibility requirements set forth at N.J.A.C. 10:90-6.1 et seq. See DFD Instruction ("DFDI") No. 19-02-01 at 2.

Here, the record reflects that Petitioner's assistance unit consists of herself, six children, and that Petitioner is expecting another child. See Initial Decision at 2-3; see also Exhibit R-F. By notice dated November 20, 2024, the Agency denied Petitioner's EASG application, contending that her household income exceeded her shelter costs, thereby making her ineligible for EA benefits. See Initial Decision at 3; see also Exhibits R-A, R-G, R-H, and N.J.A.C. 10:90-6.1(a) (1). Specifically, at the time of the Agency's denial, the ALJ found, and Petitioner acknowledged, that she was receiving Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits and SSI benefits, on behalf of three disabled children, for a total monthly household income of \$3,256. See Initial Decision at 2-4; see also Exhibits R-A, R-G. The record also reflects that Petitioner is receiving Supplemental Nutrition Assistance Program ("SNAP") benefits. See Initial Decision at 2. Petitioner's monthly shelter costs are \$2,785. See Initial Decision at 3; see also Exhibit R-H. Petitioner claimed that in order to receive SSI funds for her three children she was required to execute a "Dedicated



Account Use of Funds Statement” wherein it was stated that such a funds may not be used for “basic maintenance costs such as food, housing, clothing, and personal items which are not related to the child’s impairment.” See Initial Decision at 2-3 (emphasis added); see also Exhibit P-1 at 5. However, the ALJ found that although Petitioner’s monthly income of \$3,256, exceeds her housing costs, it is unclear from the record whether the monthly SSI funds received for her three children in the amounts \$975, \$802, and \$802, are funds required to be put into the dedicated account and therefore, not able to be used for housing costs. See Initial Decision at 3-6; see also Exhibits P-1 at 5, R-A. As such, the ALJ concluded that the Agency’s denial of an extension of EA benefits was improper, on the basis that Petitioner’s income exceeded her housing costs, reversed the Agency’s determination, and remanded the matter to the Agency to determine whether the monthly SSI funds received are in a dedicated account, and whether any exemptions or exclusions apply regarding access to those dedicated funds may be used for housing costs. See Initial Decision at 7-8; see also Exhibit R-G.

While the ALJ in this case quotes from a portion of the Social Security Administration (“SSA”) website page pertaining to dedicated accounts, it appears that a full review of the complete information contained on that page, leads to a different conclusion in this matter. Based on an independent review of the record, and also the SSA website, I find that it is clear that “a dedicated account must be separate from the account used for the regular [SSI] monthly benefit payment.” See <https://www.ssa.gov/ssi/spotlights/spot-dedicated-accounts.htm>. Further, the SSA website states that, while the dedicated account is required for “large past-due [SSI] payments,” for a disabled child under the age of 18, the dedicated account is not to be comingled with other funds, except for certain past-due SSI benefits. Ibid. (emphasis added). I do note that the record shows that for all three of Petitioner’s children who receive SSI benefits, each child separately received what appears to be a “large past-due SSI payment” prior to receiving their individual regular monthly SSI benefits, but is unclear from the record if a dedicated account was required to be set up for the past-due amounts for all three children, or just the one, M.W. See Exhibits R-A at 1, 5, 9, P-1 at 5. Finally, the SSA website clearly states that while the dedicated account monies may not be used for basic monthly maintenance costs such as food, clothing, or shelter, it also clearly indicates that “[the representative payee] must use the regular monthly SSI benefit[s] for the child’s food, clothing, or shelter.” Ibid. (emphasis added). Based on the foregoing, and in accordance with regulatory authority, I conclude that the Agency’s determination must stand, on the basis that Petitioner’s monthly total household income, comprised of her monthly WFNJ/ TANF benefits and the monthly SSI benefits received on behalf of her three children, exceeds her housing costs. See Exhibits R-A, R-G, R-H, and N.J.A.C. 10:90-6.1(a)(1). The Initial Decision is modified to reflect these findings.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

By way of further comment, I find that the Dedicated Account Use of Funds Statement, provided by Petitioner, is not evidence that a dedicated account was actually set up for one, or all three, of her children who received retroactive SSI benefits. See Exhibit P-1 at 5, Exhibit R-A at 1, 5, 9. Moreover, Petitioner’s Exceptions state that she used funds from “the dedicated account” to buy personal items, specifically diapers, which is not a permissible use of the funds from that account. See <https://www.ssa.gov/ssi/spotlights/spot-dedicated-accounts.htm>.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency’s determination is AFFIRMED, as outlined above.

Officially approved final version. January 09, 2025

Natasha Johnson
Assistant Commissioner

