



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 11357-24 K.O.

AGENCY DKT. NO. C750200007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that Petitioner has exceeded the twelve-month lifetime limit for EA benefits and that Petitioner has the funds to prevent her homelessness as her income exceeds her rental cost. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 15, 2025, the Honorable Andrea Perry Villani, Administrative Law Judge ("ALJ"), held a prehearing conference, at which time the Agency rescinded its denial of EA based upon Petitioner exceeding the lifetime limit as Petitioner receives Supplemental Security Income ("SSI") and qualifies for an EA benefits extension for eligible groups. The Agency maintained, however, that Petitioner should be denied EA benefits as she has the available resources to pay her rent due to her income exceeding the total amount of her rent. See Initial Decision at 2; see also Exhibits R-1, R-2. On February 4, 2025, the ALJ held a telephonic plenary hearing, took testimony, and admitted documents. On February 19, 2025, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were filed.

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, based on the discussion below.

In order to be eligible for EA benefits, the recipient must demonstrate that his/her shelter costs equal or exceed the total income available to the assistance unit. N.J.A.C. 10:90-6.1(a)(1). Further, as part of the determination of EA eligibility, the agency must evaluate all potential contributions of support to the household. N.J.A.C. 10:90-6.1(c)(2).

An assistance unit ("AU") may qualify for EA benefits when the AU demonstrates that available funds were exhausted on "items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii); see also DFD Instruction ("DFDI") 11-03-07 at 2. Items deemed appropriate, include, but are not limited to, food, clothing, housing, attending the funeral of a family member, excessive unreimbursed medical expenses, or car payment or repairs. See N.J.A.C. 10:90-6.1(c)(1)(ii).

Here, the record reflects that Petitioner has been provided with EA, in the form of Temporary Rental Assistance ("TRA") since August 2021. See Initial Decision at 2. Petitioner receives SSI benefits in the amount of \$974 per month, as well as \$974 SSI benefits per month on behalf of her minor son. See Initial Decision at 3. Petitioner receives Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits on behalf of her three other minor children.



Ibid. The household's total unearned income is \$2,507. Ibid. Petitioner contends that, while her income exceeds her rent, she is unable to afford her rent after satisfying other necessary household expenses including her car insurance, gas for her vehicle, utilities, and internet access. Id. at 3; see also Exhibits P-1, P-2, P-3, P-4. Petitioner additionally receives Supplemental Nutrition Assistance Program ("SNAP") benefits monthly to assist with her household's food expenses. See Initial Decision at 3. The ALJ finds that Petitioner has diligently searched and applied for affordable housing through several avenues but has been unable to secure alternative housing. See Initial Decision at 3-4. The Agency asserts that Petitioner has the capacity to plan for housing and homelessness is not imminent because she is able to afford her rental payment. See Initial Decision at 4. While the Agency acknowledges that the difference between Petitioner's rental amount and her monthly income is minimal, relying upon N.J.A.C. 10:90-6.1(a)(1), the Agency contends it can assume homelessness is imminent "when shelter costs equal or exceed total recorded income," however, because Petitioner's rental costs do not exceed her income, the Agency argues Petitioner's homelessness is not imminent and that she has the capacity to plan for housing. Ibid.

The ALJ finds that, pursuant to N.J.A.C. 10:90-6.1(c)(1)(ii), a lack of realistic capacity to plan exists when an assistance unit can demonstrate that available funds were exhausted from meeting the expenses of daily living, wherein certain daily living expenses can be considered an acceptable diversion of funds when establishing EA eligibility. See Initial Decision at 4; see also DFD Instruction ("DFDI") No. 11-03-07. The ALJ concludes that Petitioner provided proof of daily living expenses, which the ALJ finds reasonable and necessary, which reduced her income to an amount less than the amount necessary to pay her rent of \$2,300 per month. See Initial Decision at 4-5; see also Exhibit P-1, P-2, P-3, P-4; and N.J.A.C. 10:90-6.1(c)(1)(ii) and DFDI No. 11-03-07. Based on the foregoing, the ALJ concluded that Petitioner is in a state of imminent homelessness and does not have a realistic capacity to plan in advance for alternative housing, and as such, she is entitled to continued EA benefits. See Initial Decision at 5. Based on an independent review of the record, I agree.

By way of comment, Petitioner is reminded of her responsibility to continue to search and apply for subsidized and affordable housing.

By way of further comment, Petitioner should apply for utility assistance through the New Jersey Department of Community Affairs (e.g., USF and LIHEAP), if she has not already done so, to assist with those monthly costs. Information and links to these, as well as other utility assistance programs, are available on the New Jersey Board of Public Utilities website.

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

Officially approved final version. April 10, 2025

Natasha Johnson
Assistant Commissioner

