



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 **08678-24 N.M.**

AGENCY DKT. NO. **C160342015 (OCEAN COUNTY BOARD OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's EA benefits, in the form of Temporary Rental Assistance ("TRA"), contending that he had the capacity to plan to avoid his emergent situation, but failed to take reasonable steps to resolve his emergency. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. Initial attempts to notify Petitioner of his right to a fair hearing were not successful and initially an emergent hearing had been scheduled for June 11, 2024, before the Honorable William Cooper, Administrative Law Judge, but Petitioner failed to appear and the hearing was rescheduled. On June 28, 2024, the Honorable Tricia M. Caliguire, Administrative Law Judge, ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents and the record was closed. On July 1, 2024, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on July 8, 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 ADOPT the ALJ's Initial Decision, and AFFIRM the Agency's determination, 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. Documentation must be presented to the Agency demonstrating that an eviction is pending or has occurred. N.J.A.C. 10:90-6.3(a)(1)(ii). Further, pursuant to N.J.A.C. 10:90-6.1(c)(1)(ii), a lack of realistic capacity to plan includes the exhaustion of funds on appropriate, necessary, and reasonable expenses of daily living and/or, pursuant to N.J.A.C. 10:90-6.1(c)(1)(iii), "[w]hen the assistance unit demonstrates functional incapacity, for example, evidence of alcohol or drug abuse, or a mental or cognitive impairment that would prevent them from planning for or securing substitute housing."

Here, the record reveals that Petitioner applied for EA, in the form of TRA, on April 1, 2024, after exhausting the two-year limit on rental assistance payments he had previously been receiving since April 1, 2022, from the New Jersey Department of Community Affairs' ("DCA") COVID-19 Emergency Rental Assistance Program. See Initial Decision at 2-3; see also Exhibits R-2, R-5, R-6, R-10, and P-8. The record further reveals that Petitioner, who was previously self-employed, has been unemployed since June 2020, however, Petitioner presented no evidence to the Agency or ALJ of barriers to employment such as a medical condition, physical disability, or substance abuse. See Initial Decision at 2-3; see also Exhibit R-2, and N.J.A.C. 10:90-6.1(c).



With respect to the claimed circumstances beyond Petitioner's control and the capacity to plan, Petitioner testified that his emergency is his minor children being home from school for the summer. See Initial Decision at 3. The Agency contends that Petitioner has had adequate time, two years, to plan for alternate housing, and that Petitioner knowingly entered into a twelve-month lease on February 29, 2024, with the knowledge and understanding that the DCA rental assistance program would be ending one month after his lease renewal. Ibid.

The ALJ in this matter found that Petitioner had the capacity to plan to avoid his emergent situation, but failed to do so, thereby causing his own homelessness. See Initial Decision at 4. Specifically, the ALJ found that Petitioner's emergent situation was a result of his failure to find alternate housing, and employment, and that the burden upon Petitioner to prove by a preponderance of the evidence that the Agency erred in its decision to deny his EA application was not met. Ibid. Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was proper and must stand. Ibid.; see also N.J.A.C. 10:90-6.1(c)(1). I agree.

By way of comment, I have reviewed Petitioner's Exceptions, and I find that the arguments therein do not alter my decision in this matter.

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

Officially approved final version. July 11, 2024

Natasha Johnson
Assistant Commissioner

