



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT

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Director

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 12347-19 C.G.

AGENCY DKT. NO. S799823009 (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 she had sufficient income to pay her housing costs. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 10, 2019, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open for the Agency to provide a copy of Petitioner's EA application, and closed on September 11, 2019. On that same day, September 11, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of the Petitioner, on September 12, 2019.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I hereby MODIFY the ALJ's Initial Decision, and AFFIRM the Agency's determination, as discussed 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. See N.J.A.C. 10:90-6.1(c). Documentation must be presented to the Agency demonstrating that an eviction is pending or has occurred. See N.J.A.C. 10:90-6.3(a)(1)(ii). The lack of a realistic capacity to plan exists when the assistance unit can demonstrate that available funds were exhausted on items deemed necessary, appropriate, or reasonable for decent living, and that such expenditures were made as a result of a significant occurrence or from meeting the expenses of daily living. See N.J.A.C. 10:90-6.1(c)(1)(ii). 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). These expenses must be documented in the case record. Ibid.

N.J.A.C. 10:90-6.3(a)(7) states, in pertinent part, "The Agency may authorize T[emporary] R[ental] A[ssistance] when the total cost of housing inclusive of basic utilities is equal to or below the current



Fair Market Rent ("FMR")[] Amounts in excess of the current FMR will require prior approval and authorization of subsidy level by DFD[]"

Here, the record reflects that Petitioner, a Work First New Jersey/General Assistance ("WFNJ/GA") benefits recipient, applied for EA benefits on August 8, 2019. See Initial Decision at 3; see also Exhibit R-6. At that time, Petitioner, whose monthly rent is \$1369, was in arrears for several months, had an open utilities balance, and a pending claim for Social Security benefits. See Initial Decision at 2; see also Exhibits R-2, R-3, R-4, R-6, and R-7. Further, Petitioner was paying off a private loan with bi-monthly payments, for which she had an outstanding balance. See Initial Decision at 2; see also Exhibit R-8. However, from April of 2019, through July of 2019, Petitioner received temporary disability benefits from an insurance company in the total amount of \$7975.08. See Initial Decision at 2; see also Exhibit R-2. On August 27, 2019, the Agency denied Petitioner EA benefits, finding that she had the capacity to plan for her housing emergency, but had mismanaged her funds. See Initial Decision at 2; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c). At the time of the hearing, Petitioner testified that she owed her landlord rent in the amount of \$1948 from a prior settled eviction action in November 2018. See Initial Decision at 3. Petitioner also testified that she had monthly expenses, including a car payment and car insurance, phone, and medical claims surrounding her disability action, as well as other expenses. See Initial Decision at 3. Despite Petitioner's rental arrears, at the time of the hearing, Petitioner's landlord had not commenced an eviction action. See Initial Decision at 3. The ALJ found that Petitioner had used her WFNJ/GA benefits and temporary disability benefits to pay for items not deemed necessary, and that she had sufficient income to pay her housing costs. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1(c)(1). Moreover, the ALJ found that, as Petitioner's landlord had not commenced an eviction action, Petitioner had failed to demonstrate insufficient time to secure affordable housing. See Initial Decision at 4-5; see also N.J.A.C. 10:90-6.1(c)(1)(i). Accordingly, the ALJ concluded that the Agency's denial of Petitioner's EA benefits was proper and must stand. See Initial Decision at 5; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c).

While I agree with the ALJ's final conclusion in this matter, following an independent review of the record, I hereby modify the Initial Decision as follows. First, the ALJ found that Petitioner's expenditures did not constitute necessary and reasonable costs. See Initial Decision at 4. However, as contained in quoted regulatory authority in the Initial Decision, and as referenced in the Exceptions filed on behalf of Petitioner, expenditures such as medical expenses and car payments may be deemed necessary and reasonable expenses. See N.J.A.C. 10:90-6.1(c)(1)(ii). Regardless, the record in this matter is devoid of any documentation from Petitioner to substantiate the extent and existence of these or any other expenses, or to confirm payment of any back rent, as contended, and in fact, only contains minimal documentation showing payment for two expenses totaling approximately \$500. See Exhibit P-1. Therefore, I find that, while Petitioner's medical expenses and car payments may be deemed necessary and reasonable, the record contains no corroborating evidence to support that Petitioner had spent the \$7975.08 of temporary disability benefits on necessary and reasonable expenses. Second, I agree with the ALJ that Petitioner has not established an emergency, such that she is homeless or imminently homeless, as the record reveals no evidence that Petitioner's landlord has commenced an eviction action for the months of unpaid rent. See N.J.A.C. 10:90-6.3(a)(1)(ii). Finally, I note that Petitioner's rent of \$1369 per month, not including electric, exceeds the FMR for a one-bedroom apartment in Hudson County, which is \$1322. See DFDI 18-09-04; see also N.J.A.C. 10:90-6.3(a)(7). Based on the foregoing, I find that the Agency's denial of EA benefits to Petitioner was proper and must stand. The Initial Decision is modified to reflect these findings.

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



Officially approved final version.

SEP 17 2019

Natasha Johnson
Director

