



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Acting Commissioner

SHEILA Y. OLIVER
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 07594-20 M.M.

AGENCY DKT. NO. C033745018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA/Temporary Rental Assistance ("TRA") benefits, contending that his income exceeded his housing costs. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 24, 2020, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open to allow the parties the opportunity to submit additional documentation, and then closed on December 7, 2020. On December 23, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

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 MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

Pursuant to N.J.A.C. 10:90-6.1(a)(1), EA benefits shall be made available "[w]hen shelter costs equal or exceed total recorded income to the WFNJ or SSI assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses[.]"

Here, the ALJ concluded that the Agency was only permitted to terminate Petitioner's EA benefits for the reasons set forth in N.J.A.C. 10:90-6.1(c)(3)(i)-(ix), and not because his income exceeded his housing costs, as was the Agency's basis for the EA termination. See Initial Decision at 7, 10; see also Exhibits R-4, R-7, and N.J.A.C. 10:90-6.1(a)(1). I disagree, finding that the ALJ's regulatory analysis is misplaced. See Initial Decision at 6-10. Rather, I find that in order for Petitioner to continue to be eligible for EA benefits he must continue to meet all eligibility requirements for such benefits, and one of those requirements is that his shelter costs must equal or exceed his total recorded income. See N.J.A.C. 10:90-6.1(a)(1). The record reflects that Petitioner's Supplemental Security Income ("SSI") is \$814.25 and his housing costs are \$725, and as such, his income exceeds his housing costs by \$89.25. See Initial Decision at 6; see also Exhibit R-3. Contrary to the ALJ's finding, regulatory authority does not



allow for monthly personal or medical expenses to be taken into account when calculating Petitioner's continued EA benefits eligibility. See Initial Decision at 8. Nevertheless, although Petitioner's SSI income exceeds his housing costs, I find that because his housing costs are well below the Fair Market Rent for a studio or one-bedroom apartment in Somerset County, and because it is goal of the EA benefits program to minimize the incidence of homelessness among the SSI recipient population, particularly during the current pandemic, Petitioner is eligible for EA/TRA benefits for his current apartment, so long as he continues to remain eligible for said benefits in accordance with N.J.A.C. 10:90-6.1 et seq. See Initial Decision at 6, 9; see also Exhibit R-3, and N.J.A.C. 10:90-6.1(a)(1), and DFD Informational Transmittal No. 20-26. Further, the Agency may take into consideration Petitioners' monthly out-of-pocket medical expenses when determining his 30 percent monthly contribution toward his housing costs. See Initial Decision at 8; see also N.J.A.C. 10:90-6.5(a)(1)(i). Based on the foregoing, I reverse the Agency's termination of Petitioner's EA/TRA benefits. See Exhibits R-4, R-7. The Initial Decision is modified to reflect these findings.

By way of comment, Petitioner is directed to contact Medicare to inquire about getting free transportation with "Logisticare," to contact the Agency to inquire about a "Scoot" pass to assist with transportation, and to contact "Assurance" and "Safelink" for free cellular services. See Initial Decision at 6. Petitioner is advised that many of his toiletry needs may be provided by his local food bank. Ibid.

By way of further comment, Petitioner is directed to continue to look for more affordable housing, including applying for Section 8 housing, in order to become fully self-sufficient, as EA benefits are temporary and time limited, and not a permanent housing subsidy. Id. at 5.

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

FEB 11 2021

Officially approved final version.

Natasha Johnson
Assistant Commissioner

