



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
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 **00825-23 D.L.**

AGENCY DKT. NO. **C462041004 (CAMDEN-CCBSS)**

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 rent, but failed to do so. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 31, 2023, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On February 1, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

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 MODIFY the Agency's determination, based on the discussion below.

In order to be EA eligible, the assistance unit must be in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan. See N.J.A.C. 10:90-6.1(c). 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). These expenses must be documented in the case record. *Ibid.* Additionally, EA shall not be provided for a period of six months when an applicant "had the available funds and the capacity to plan to prevent homeless," but failed to do so, thereby causing their own homelessness. See N.J.A.C. 10:90-6.1(c)(3)(v).

Here, the record reflects that Petitioner's total household income for the months of March 2022, through May 2022, was \$12,081, which included a \$9,586.01 federal income tax refund, a \$1,877 state income tax refund, and \$185 per month in Work First New Jersey/General Assistance benefits. See Initial Decision at 2-4; see also Exhibit R-1 at 2, 14, 15. The record also reflects that Petitioner failed to pay her monthly \$719 rent due for the months of June through December, 2022. See Initial Decision at 3-4;



see also Exhibit R-1 at 23-27, 39. Further, Petitioner admitted that she did not pay any rent out of her tax refund monies, that she had helped her daughter out with those funds, and that she had also “used the money to live.” See Initial Decision at 4, 6; see also Exhibit R-1 at 16, 40. Petitioner’s daughter testified that her mother had agreed to give \$7,877 of her tax refund monies to her as repayment for declaring her children as dependents on her tax return. See Initial Decision at 3. However, the ALJ found Petitioner’s daughter’s testimony unconvincing, and that such claimed agreement was unsubstantiated by the record. See Initial Decision at 6. Based on the foregoing, the ALJ found that Petitioner had sufficient funds and the opportunity to plan ahead to pay her rent, but failed to do so, rather choosing to spend her tax refund monies assisting her daughter, buying furniture, and buying toiletries. See Initial Decision at 6; see also Exhibit R-1 at 16, 40. Accordingly, the ALJ concluded that the Agency’s denial of EA benefits to Petitioner was proper and must stand. See Initial Decision at 7; see also Exhibit R-1 at 42-44, and N.J.A.C. 10:90-6.1(c). I agree.

Additionally, as I concur with the ALJ’s finding that Petitioner had the available funds and the capacity to plan to avoid her emergent situation, but failed to do so, I find that Petitioner caused her own homelessness, and as such, is ineligible for EA benefits for a period of six-months. See Initial Decision at 6; see also N.J.A.C. 10:90-6.1(c)(3)(v). Further, Petitioner’s EA ineligibility penalty shall begin to run from December 20, 2022, the effective date of the Agency’s denial notice, through June 19, 2023. The Initial Decision and the Agency’s action are modified to reflect these findings. See Exhibit R-1 at 42.

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.

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

Officially approved final version. February 16, 2023

Natasha Johnson
Assistant Commissioner

