



## State of New Jersey

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*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
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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 12223-23 M.B.

AGENCY DKT. NO. C455038007 (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 she had the capacity to plan to avoid her emergent situation, but failed to do so. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 13, 2023, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On November 14, 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 at issue was \$1,504, and that her monthly rent, not including utilities, was \$1,250. See Initial Decision at 2-3; see also Exhibits R-1 at 3-4, R-3. The record also reflects that Petitioner failed to pay her monthly rent due for the months of June through August, 2023. See Initial Decision at 3; see also Exhibits P-1, P-2. Petitioner testified



that she did not pay her rent during the time at issue, but rather had used her funds to make necessary repairs to her apartment, and had also used her funds to pay for her living expenses. See Initial Decision at 4. However, the ALJ found that Petitioner had failed to substantiate her claim that her funds had been used to make necessary repairs to her apartment, nor could she provide a complete answer as to why she was unable to pay her rent commencing in June 2023, despite having the sufficient funds to do so. Id. at 6. Based on the testimony and record provided, the ALJ concluded that the Agency had proven, by a preponderance of the evidence, that its denial of EA benefits to Petitioner was proper and must stand. See Initial Decision at 6; see also Exhibit R-2, and N.J.A.C. 10:90-6.1(c)(1). I agree.

Additionally, as I concur with the ALJ's ultimate conclusion, and find that Petitioner had the available funds and the capacity to plan to avoid her emergent situation, but failed to do so, I also 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 2-4, 6; see also N.J.A.C. 10:90-6.1(c)(3)(v). Both the Initial Decision and the Agency's determination are modified to reflect this finding.

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. November 16, 2023

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Natasha Johnson  
Assistant Commissioner

