



## State of New Jersey

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*Governor*

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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 **06344-23 R.N.**

AGENCY DKT. NO. **C095683003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits, in the form of temporary shelter. The Agency denied Petitioner EA benefits, contending that he had the capacity to plan to avoid his emergent situation, specifically, that he had available and sufficient funds to pay his rent, but did not do so, thereby causing his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 21, 2023, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held an emergent telephonic plenary hearing, took testimony, and admitted documents. The record was held open to allow for receipt of additional documents, and then closed on July 24, 2023. On that same date, the ALJ issued an Initial Decision, reversing the Agency's determination, but directing that Petitioner provide specific information to the Agency with respect to his car payments for evaluation.

Exceptions to the Initial Decision were filed by the Respondent Agency on July 25, 2023.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I ADOPT the Initial Decision, REVERSE the Agency's denial, and REMAND to the Agency, based on the discussion below.

Here, the record reflects that Petitioner applied for EA benefits, in the form of temporary shelter, on May 30, 2023. See Initial Decision at 2; see also Exhibit R-A. At the time of Petitioner's application for EA benefits, he received \$936 per month in Supplemental Security Income ("SSI") benefits. See Initial Decision at 2; see also Exhibit R-A at 11. Petitioner was approved for temporary placement for 30 days, beginning May 30, 2023, through June 30, 2023. See Initial Decision at 3. On June 29, 2023, the Respondent Agency requested that Petitioner, by no later than July 13, 2023, provide, among other items, verification of all "SSI expenditures." Ibid.; see also Exhibit R-D. On July 14, 2023, Petitioner appeared at the Agency, and completed an expense worksheet, detailing how his monthly SSI benefits were spent. See Initial Decision at 3; see also Exhibit R-E at 42. Thereafter, on July 18, 2023, Petitioner provided a letter indicating that his former rental was not subsidized. See Initial Decision at 3. Based upon its review of the documentation Petitioner had provided, the Agency determined that Petitioner



did not qualify for EA since had the realistic capacity to plan in advance for substitute housing. See Initial Decision at 7. Specifically, the Agency reasoned that since Petitioner's SSI benefits were not suspended, and Petitioner was not paying rent, Petitioner had the capacity and financial means to plan for substitute housing. Ibid. Therefore, by notice dated July 18, 2023, the Agency denied Petitioner's application for EA benefits, and further advised Petitioner that the last housing assistance payment would be made on that date. See Initial Decision at 4, 5; see also Exhibit R-F, and N.J.A.C. 10:90-6.1(c)(1)(ii), -6.1(c)(3).

The ALJ found, contrary to the Agency's assertion, that Petitioner did not have the capacity to plan for substitute housing, because, while Petitioner aggressively sought housing, he experienced difficulty in finding suitable housing, due to the size of his household unit, and that he repeatedly advised the Agency of this difficulty on a weekly basis. See Initial Decision at 7. The ALJ further found that, based on a review of Petitioner's finances, he also did not have the financial means to afford suitable housing, despite not paying rent. Id. at 8. Based upon the figures submitted by Petitioner, the ALJ found that after expenses such as food, car, and property and/or tax insurance, the remaining amount of Petitioner's SSI income is not enough to afford any housing expenses. Ibid. As such, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner had a realistic capacity to plan for substitute housing. Ibid.; see also N.J.A.C. 10:90-6.1(c)(1)(ii). I agree. With respect to the sufficiency of the documentation provided, the ALJ found that Petitioner had not provide car payment statements, which had been requested by the Agency, in order to determine whether Petitioner was, in fact, eligible for EA. See Initial Decision at 9. To this end, the ALJ ordered that Petitioner submit car payment statements, and any other related receipts for his monthly living expenses, to the Agency for evaluation of Petitioner's eligibility for EA benefits. Ibid. I also agree, and direct that Petitioner immediately provide the Agency with the car payment statements, if he has not already done so, as well as any other related receipts for his monthly living expenses. The Agency shall then expedite review of the documentation, and provide Petitioner with immediate need assistance, pending the approval or denial of Petitioner's EA application. In the event that Petitioner's EA application is then denied by the Agency, Petitioner may request another fair hearing on that substantive denial.

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

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED, and the matter is REMANDED to the Agency, as outlined above.

Officially approved final version.

August 1, 2023

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Natasha Johnson

Assistant Commissioner

