



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 **00140-24 A.O.**

AGENCY DKT. NO. **C033613018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, 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. An emergent hearing was initially scheduled for January 8, 2024, but was adjourned at the request of both parties, to allow for the opportunity to review additional information and to provide Petitioner with the opportunity to obtain counsel. The hearing was rescheduled for January 17, 2024, but was again adjourned to allow for the continued review of information that the Agency stated had not been received, but had been sent by Petitioner. On January 25, 2024, the Honorable Mary Ann Bogan, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 29, 2024, 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, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, AFFIRM the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

As a condition of eligibility for WFNJ benefits, the applicant/recipient shall, subject to good cause exceptions, be required to provide all necessary documentation. See N.J.A.C. 10:90-2.2(a)(5). Additionally, all applicants and recipients are in all instances the primary source of information about themselves and their families. See N.J.A.C. 10:90-1.6(a).

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).

Based on an independent review of the record, I find that Petitioner's total household income from Unemployment Insurance Benefits ("UIB") for the months of May 2023, through October 2023, was \$747 per week, totaling approximately \$17,928. See Initial Decision at 3; see also Exhibit P-1 at 2. The record also reflects that Petitioner failed to pay her



monthly \$2,450 rent due for the months of May 2023, through December, 2023, totaling \$14,800. See Initial Decision at 3-4; see also Exhibit R-3. Further, Petitioner admitted that she did not pay any rent out of her UIB monies, but rather, had made payments for two household cars, including monthly car insurance payments (one being a car purchased for her adult daughter), and on remaining monthly expenses such as utilities, food, and basic month to month expenses for a household of five people. See Initial Decision at 2-4. Nevertheless, based on Petitioner's testimony alone, the ALJ concluded that Petitioner had spent her UIB monies on necessary and appropriate items, rather than pay her rent. See Initial Decision at 3-6. In relying solely on Petitioner's testimony, the ALJ overlooked the applicable regulatory authority requiring documentation of the spend down of her available funds. See N.J.A.C. 10:90-6.1(c)(1)(ii). Based on the record presented in this matter, I find that the record is clearly devoid of any documentation sufficient to substantiate if Petitioner's UIB monies were actually spent on items deemed "appropriate, necessary or reasonable for decent living," a requirement pursuant to N.J.A.C. 10:90-6.1(c)(1)(ii). See Exhibits P-1 through P-5. Further, I find that it is Petitioner's burden to provide the documentation required to determine if she had appropriately paid expenses that should have been used for rent, and not the Agency's burden, as such required documentation is clearly not available to the Agency unless provided by Petitioner. See Initial Decision at 4-6; see also N.J.A.C. 10:90-1.6(a), -2.2(a)(5), -6.1(c)(1)(ii). On this basis, the Agency's denial of EA benefits, and imposition of a six-month EA ineligibility penalty are affirmed.

Nevertheless, taking into consideration the particular circumstances that lead to Petitioner's loss of employment, and the undisputed testimony that she is actively seeking employment, I am remanding the matter back to the Agency to determine if indeed Petitioner's UIB monies were spent on items deemed appropriate and necessary. See Initial Decision at 3-4; see also Exhibit P-5 at 4-16. Petitioner is advised that she must provide documentation corroborating that her UIB monies were spent on appropriate and necessary items, in accordance with regulatory authority, within 15 days of the date of this Final Agency Decision. See N.J.A.C. 10:90-2.2(a)(5), -6.1(c)(1)(ii). Petitioner is further advised that failure to do so will result in the Agency's denial of EA benefits, and the imposition of a six-month EA ineligibility penalty, to stand as issued, on the basis that she had sufficient funds and the opportunity to plan to avoid her emergent situation, but failed to do so, thereby causing her own homelessness. See Exhibit R-4; see also N.J.A.C. 10:90-6.1(c)(3)(v). The Initial Decision is modified to reflect these findings.

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

Officially approved final version. February 15, 2024

Natasha Johnson
Assistant Commissioner

