



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 1159-15 I.A.

AGENCY DKT. NO. C022486 (CAPE MAY COUNTY BD. OF SOC. SVCS.)

Petitioner appeals the termination of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency terminated Petitioner's EA benefits because it concluded that Petitioner's income exceeded his shelter costs. Because the Petitioner appealed, the matter was referred to the Office of Administrative Law for a hearing. On April 16, 2015, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. The record remained open for submission of post hearing briefs until April 27, 2015, after which the record closed. On May 11, 2015, the ALJ issued an Initial Decision which reversed the Agency determination.

Neither party submitted Exceptions.

As Director of the Division of Family Development ("DFD"), Department of Human Services, I independently reviewed the record and hereby MODIFY the Initial Decision and REVERSE the Agency determination. While I concur with the ALJ's final conclusion in this matter, I respectfully disagree with the legal analysis used to reach that conclusion and on that basis I am modifying the Initial Decision.

In order to be eligible for EA benefits, the recipient must demonstrate that his shelter costs equal or exceed the total income available to his assistance unit. N.J.A.C. 10:90-6.1(a)(1). Further, as part of the determination of EA eligibility, the agency must evaluate all potential contributions of support to the household. N.J.A.C. 10:90-6.1(c)(2). Moreover, Supplemental Security Income ("SSI") status does not automatically qualify an applicant for EA benefits, nor is EA eligibility criteria different

for Work First New Jersey and SSI individuals. An SSI applicant must still meet the criteria for EA benefits as set out at N.J.A.C. 10:90-6.1, including an evaluation of all support available to the household and whether the individual's income exceeds his shelter costs. See N.J.A.C. 10:90-6.1(a)(1) and -6.1(c)(2); see also DiMaria v. Board of Trustees of the PERS, 225 N.J. Super. 341, 351(App. Div. 1988) (stating that "[a]n agency's interpretation of its own regulations is entitled to substantial deference"). Finally, it is important to note that EA benefits are not infinite in duration for any recipient.

An assistance unit ("AU") may qualify for EA benefits when the AU demonstrates that available funds were exhausted on "items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living." N.J.A.C. 10:90-6.1(c)(1)(ii); see also DFDI Instruction ("DFDI") 11-03-07 at 2. Items deemed appropriate, include, but are not limited to, food, clothing, housing, attending the funeral of a family member, excessive unreimbursed medical expenses, or car payment or repairs. See N.J.A.C. 10:90-6.1(c)(1)(ii).

The record in this matter reveals that Petitioner receives SSI benefits in the amount of \$764.25 and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits in the amount of \$16. See Initial Decision at 2. Petitioner's rent is \$756. Ibid. The Agency contends the Petitioner is not eligible for EA because his total recorded income is greater than his shelter cost. The ALJ states, "the [A]gency was prepared to afford Petitioner an offset for any medical expenses, but excluded all other expenses in its calculation." Ibid. Petitioner contends his necessary expenses also include automobile expenses, insurance and fuel costs which are "disability related expenses" as Petitioner has "end-stage renal failure, stage IV" and must travel to doctors appointments, including several monthly trips to Camden from Cape May County. See Exhibit P-1 at 2.

The ALJ in this matter opined that there is no regulatory authority which would permit a deduction for additional, normal living expenses, nor any to permit a deduction for medical expenses. See Initial Decision at 4-5. As the above referenced cited regulatory authority clearly indicates, the ALJ's conclusion in this regard is misplaced. The Agency may consider not only the Petitioner's income but his documented out-of-pocket medical and other disability expenses, as well as other expenditures necessary and appropriate to meet daily living expenses, in determining EA eligibility. N.J.A.C. 10:90-6.1(c)(1)(ii); see also DFDI 11-03-07 at 2. In this case, based upon the record presented, I find that Petitioner's countable expenses are greater than his income and therefore, he is eligible for EA benefits.

By way comment, I note that the record indicates that Petitioner has submitted an application for subsidized housing. See Exhibit P-1 at 2. The Agency should assist Petitioner in applying for any additional subsidized housing which may be available.

For the foregoing reasons, I MODIFY the Initial Decision and REVERSE the Agency determination.

Signed Copy on File
at DFD, BARA

JUL - 6 2015

Natasha Johnson
Director