



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 3201-15 J.B.

AGENCY DKT. NO. C037466 (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 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 DFD 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. See Initial Decision at 2. Petitioner's rent is \$761. See Exhibit R-1 at 13. The Agency contends the Petitioner is not eligible for EA because his total recorded income is greater than his shelter cost. Petitioner contends his necessary expenses for things such as transportation to doctor appointments, food, telephone and court ordered child support should be deemed "disability related expenses." See Exhibit P-1 at 1-2. The record indicates that Petitioner does have health related issues. See Initial Decision 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 any 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 DFD Instruction ("DFDI") 11-03-07 at 2.

In this case, in addition to what can clearly be considered appropriate expenses for daily living, Petitioner also pays court ordered child support in the weekly amount of \$73 for two children. See Initial Decision at 5; see also P-5, P-6, P-7. I concur with the ALJ that the court ordered child support payments must be subtracted first to determine the actual amount of income truly available to Petitioner to cover his appropriate and necessary expenses for daily living. With that amount immediately

subtracted, Petitioner is left with a monthly sum available of about \$464. See Initial Decision at 5. As such, based upon the record presented, I find that Petitioner's countable expenses are greater than his income and therefore, he remains eligible for EA benefits at this time.

However, I do note that the record indicates that Petitioner has received in excess of 80 months of EA benefits. See R-1 at 22-34. As stated above, EA benefits are not infinite in duration for any recipient. It is unclear if Petitioner is presently living in subsidized housing. The Agency should assist Petitioner in applying for any and all subsidized housing in the County which may be available. Application to subsidized housing, if applicable, this must be incorporated into Petitioner's EA service plan.

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