



## DEPARTMENT OF HUMAN SERVICES

Division of Family Development  
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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 5338-15 N.M.

AGENCY DKT. NO. C033623 (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 her shelter costs. Because the Petitioner appealed, the matter was referred to the Office of Administrative Law ("OAL") for a hearing. On May 7, 2015, the Honorable W. Todd Miller, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On May 12, 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 ADOPT the Initial Decision and REVERSE the Agency determination.

In order to be eligible for EA benefits, the recipient must demonstrate that her shelter costs equal or exceed the total income available to her 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 her

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.

I concur with the ALJ in this matter that 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." See Initial Decision at 7-8 (citing 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 and Retirement, Survivors and Disability Income ("RSDI") benefits in the amount of \$784.25 and Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits in the amount of \$16. See Exhibit R-1 at 23-24. Petitioner's rent is \$756. See Initial Decision at 2.

The record further shows that the Agency approved Petitioner for TRA in the form of a security deposit and first month's rent on September 22, 2014. See Exhibit C-1 at 2. It appears that immediately prior to that approval, Petitioner had been housed in a motel. See Initial Decision at 2. On December 4, 2014, the Agency then terminated Petitioner's EA/TRA effective January 1, 2015, contending that her total recorded income was greater than her shelter cost. See Exhibit C-1 at 4. The Agency's adverse action notice seems to support that the Agency was prepared to afford Petitioner an offset for any medical expenses, if submitted, for reconsideration, but excluded all other expenses in its calculation. *Ibid.*

Petitioner then contested that termination and a hearing was scheduled at the OAL for February 12, 2015. See Initial Decision at 3. Petitioner failed to appear for that hearing and thereafter, the continued benefits Petitioner had been receiving pending the hearing were terminated. *Ibid.* The facts now reveal that Petitioner had been hospitalized at the time of the February 2015 OAL hearing, and I concur with the ALJ that Petitioner had good cause for not attending the prior hearing and further, had no means by which to communicate her circumstances to the OAL at the time. See Initial Decision at 3, 11; see also Exhibit P-1 at 9. Petitioner then reapplied for EA benefits which the Agency denied on March 24, 2015, on the same basis. See Exhibit R-1 at 35.

The record shows that Petitioner is disabled with mental health issues. See Initial Decision at 3. Petitioner has been homeless on various occasions in the past. *Ibid.* Petitioner contends that her reasonable and necessary expenses, when taken into consideration, demonstrate that Petitioner does not have sufficient funds to pay her rent. See Exhibit P-1 at 1-2. Additionally, Petitioner has excess medical expenses which she is anticipated to cover herself. See *id.* at 2. Petitioner's counsel maintains that her expenses are "disability-related." *Ibid.* (citing N.J.A.C. 10:90-6.5(a)(1)(i)).

As the above referenced cited regulatory authority clearly indicates, the Agency may consider not only the Petitioner's income but her documented out-of-pocket medical and other disability-related 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, based upon the record presented, I agree with the ALJ's finding that Petitioner's countable expenses are greater than her income and therefore, she is eligible for EA benefits. See Initial Decision at 10-11.

By way comment, I note that the record indicates that Petitioner has recently submitted an application for subsidized housing. See Initial Decision at 10; see also Exhibit P-1 at 15. The Agency should assist Petitioner in applying for any additional subsidized housing in the County which may be available.

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

*Signed Copy on File*

at DFD, BARA

**JUN 25 2015**

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Natasha Johnson  
Director