



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
P.O. Box 716
TRENTON, NEW JERSEY 08625

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Jennifer Velez
Commissioner

Jeanette Page-Hawkins
Director
Tel (609) 588-2000

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 2749-15 H.T.

AGENCY DKT. NO. C275577 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits because it concluded that Petitioner's income exceeded his shelter costs, thereby giving Petitioner sufficient funds to pay his rent. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 2, 2015, the Honorable Michael Antoniewicz, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony and admitted documents. On March 3, 2015, the ALJ issued an Initial Decision affirming the Agency determination.

No exceptions to the Initial Decision were filed by either party.

As the Deputy Director of the Division of Family Development, Department of Human Services, I reviewed the record, and hereby ADOPT the ALJ's Initial Decision and AFFIRM the Agency's determination.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in relevant part, that the individual must have an "actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing." N.J.A.C. 10:90-6.1(c).

In order to be eligible for EA, 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 show that a lack of capacity to engage in advance planning exists when the spend down of available funds is demonstrated by the AU. N.J.A.C. 10:90-6.1(c)(1)(ii). That is, where the AU can demonstrate 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," the AU may qualify for EA benefits. *Ibid.* 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. *Ibid.*

In the present matter, the Agency approved Petitioner's request for EA on January 23, 2015, providing payment of a security deposit and first month's rent so that Petitioner could secure an apartment. See Initial Decision at 2; Exhibit R-5 at 2. Petitioner receives \$764.00 per month in SSI benefits and his rent is \$700.00 per month. See Initial Decision at 2. Petitioner was advised by the Agency that he was responsible for paying his on-going monthly rent. See Exhibit R-5 at 2. Petitioner testified that he had the funds to pay his rent and failed to do so. See Initial Decision at 2. As such, the ALJ concluded that the Agency appropriately denied Petitioner EA benefits because he had the ability to pay his rent but failed to do so. I agree.

By way of comment, although I concur with the Agency's decision in this matter, in that Petitioner had sufficient monthly income to pay his on-going rent, the record lacks details regarding any necessary expenses of Petitioner. Accordingly, Petitioner may qualify for additional EA benefits if he can provide documentary support showing his rent and other necessary expenses exceed his monthly income. See N.J.A.C. 10:90-6.1(c)(1)(ii). As such, Petitioner is without prejudice to reapply EA for benefits, provided he continues to need EA benefits and is otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1.

Based upon the foregoing, the Initial Decision in this matter is ADOPTED and the

Based upon the foregoing, the Initial Decision in this matter is ADOPTED and the Agency's determination is hereby AFFIRMED.

MAR 17 2015

Signed Copy on File
at DFD, BARA

Natasha Johnson
Deputy Director