



## State of New Jersey

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*Governor*

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DIVISION OF FAMILY DEVELOPMENT  
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TRENTON, NJ 08625-0716

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 **04431-25 F.P.**

AGENCY DKT. NO. **S981380009 (HUDSON COUNTY DEPT OF FAM SVCS)**

Petitioner challenges the correctness of Respondent Agency's authorization of Emergency Assistance ("EA") benefits. The record contains no adverse action taken by the Agency, which has neither denied nor terminated Petitioner's EA benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On March 13, 2025, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents, and the record was closed. On March 19, 2025, the record was reopened for the submission of documents from the Agency and again closed. Also on March 19, 2025, the ALJ issued an Initial Decision.

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, and DISMISS Petitioner's appeal, based on the discussion below.

Pursuant to N.J.A.C. 10:90-9.3(a), an applicant/recipient may request a fair hearing when he/she is adversely affected by an Agency action. Agency actions which adversely affect an applicant or recipient include any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits. See N.J.A.C. 10:90-9.3(b).

Pursuant to N.J.A.C. 10:90-6.3(a)(1), the Agency shall determine the most appropriate form of EA benefits, which may include shelter placement, that are "required to address the need and authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided." N.J.A.C. 10:90-6.3(a)(1). Temporary Rental Assistance ("TRA") is the preferred form of EA benefits in all circumstances, as appropriate. N.J.A.C. 10:90-6.3(a)(6). Further, N.J.A.C. 10:90-6.3(a)(7) states, in pertinent part, "The Agency may authorize TRA when the total cost of housing inclusive of basic utilities is equal to or below the current Fair Market Rent (FMR)[.]" Amounts in excess of the current FMR will require prior approval and authorization by DFD. See N.J.A.C. 10:90-6.3(a)(7)(i)(1).

At the outset, I find that there is no issue regarding the correctness of an EA placement and the matter should have been dismissed, as Petitioner is currently receiving EA benefits, the Agency has not denied, nor terminated Petitioner's EA benefits, and she is not homeless or imminently homeless. See N.J.A.C. 10:90-9.3(a), (b). As there had been no adverse action taken by the Agency against Petitioner, there was no contested case and OAL had no jurisdiction to rule in this matter and the appeal should have been dismissed. However, as the hearing occurred and an Initial Decision



was rendered, I have independently reviewed the record and found that Petitioner was previously offered placement at a hotel, which she refused, and is currently housed at a shelter. See Initial Decision at 2. Petitioner contends that she has located housing, but lacks the ability to pay the \$125.00 application fee. Ibid. There is no testimonial or documentary evidence in the record with regards to Petitioner finding affordable housing which meets the FMR for Hudson County, nor seeking any application fee from the Agency, nor any response from the Agency as to whether or not such fee would be covered by EA benefits. Further, by her own testimony, Petitioner is alleged to have perpetrated domestic violence and is awaiting a court hearing as to a Final Restraining Order ("FRO"), which may limit the housing available to her. See Initial Decision at 3. Additionally, no testimonial or documentary evidence was presented to suggest that Petitioner is homeless, or imminently homeless, nor that any eviction proceedings have been instituted. See N.J.A.C. 10:90-6.1(c), -6.3(a)(1)(ii).

The ALJ in this matter affirms the determination of the Agency as to the granting of EA benefits. See Initial Decision at 3-4. I concur that, at this time, Petitioner remains eligible to receive EA benefits. However, based on the foregoing, I disagree with the ALJ's determination that the Agency shall pay an application fee for housing, as the Agency has not been presented with any documentary evidence that the housing offered is within FMR, which evidence would need to be presented before any payment by the Agency. The Initial Decision is modified to reflect this finding. Further, the ALJ determined that Petitioner shall be placed in a motel rather than a shelter. Ibid. I respectfully disagree, as it is the Agency that shall determine the appropriate placement in accordance with N.J.A.C. 10:90-6.3(a)(1), and the Initial Decision is also modified to reflect this finding. Petitioner is put on notice that if she refuses Agency offered housing, any EA benefits may be terminated, and a six-month period of ineligibility for EA benefits may be imposed upon her. See N.J.A.C. 10:90-6.1(c)(3). Finally, as TRA is the preferred form of EA benefits, should Petitioner locate housing which is within the FMR for Hudson County, then EA benefits may be provided for such housing, including security deposit and the application fee for same. See N.J.A.C. 10:90-6.1(a)(1), -6.3(a)(7).

By way of comment, should Petitioner be denied EA benefits, or her EA benefits are terminated, she may request another fair hearing on those specific adverse actions. See N.J.A.C. 10:90-9.1, -9.3.

Accordingly, the Initial Decision in this matter is hereby MODIFIED. As there exists no contested issue in the case, I deem the matter moot and it is therefore DISMISSED.

Officially approved final version. March 26, 2025

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Natasha Johnson  
Assistant Commissioner

