



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 17590-24 J.M.

AGENCY DKT. NO. C184735009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"), and imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA/TRA benefits, and imposed a six-month EA ineligibility penalty, contending that she moved into an unaffordable apartment, thereby causing her own emergent situation. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 18, 2024, the Honorable Andrea Perry Villani, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Also on December 18, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on December 23, 2024.

As Assistant Commissioner, Division of Family Development ("DFD"), 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 REVERSE the Agency's determination, based on the discussion below.

N.J.A.C. 10:90-6.3(a)(5) provides, in pertinent part, that "payment shall be authorized up to any three calendar months of retroactive rental payments if it will prevent actual eviction Payment for more than three calendar months of retroactive rental payments ... shall be made only under extraordinary circumstances ... subject to authorization by DFD."

EA benefits, in the form of Temporary Rental Assistance ("TRA"), may be provided when the recipient is facing eviction, in order to maintain current permanent housing which had been previously affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or underemployment and it is anticipated that such housing will again become affordable. See N.J.A.C. 10:90-6.3(a)(6).

N.J.A.C. 10:90-6.3(a)(7)(i)(1) 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) for the county in which the recipient resides. Amounts in excess of the current FMR will require prior approval and authorization of subsidy level by DFD."

Here, the ALJ found that when Petitioner had moved into her apartment, her \$2,400 monthly rent was affordable as she was employed, and the father of her child had agreed to pay \$1,500 toward the monthly rent. See Initial Decision at 2-4; see also Exhibit P-5. Of note, it appears from the record that Petitioner and the father of her child are not living together. See Initial Decision at 3. Thereafter, however, the ALJ found that Petitioner's apartment had become unaffordable due to circumstances beyond her control. Id. at 4-5. Specifically, her need to move quickly from her previously affordable housing due the house being sold by the landlord, her loss of employment due to no fault of her



own, and the loss of her partner's employment, resulting in his failure to provide her with his agreed upon portion of the rent. Id. at 2-4; see also Exhibits P-1, P-5. The record also reflects that Petitioner has since become employed, and should now be able to afford her rent going forward. See Initial Decision at 3. Based on the foregoing, the ALJ found that Petitioner's action of moving into her \$2,400 apartment did not cause her eviction. See Initial Decision at 3-5; see also Exhibits R-1 through R-3. Accordingly, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 5; see also Exhibit R-1, and N.J.A.C. 10:90-6.3(a)(6). I agree.

However, although the record is silent as to the number of bedrooms in Petitioner's apartment, I find that she would be under the Fair Market Rent ("FMR") of \$2,029 for a one-bedroom, above the FMR of \$2,299 for a two-bedroom apartment, and below the FMR for both a three, and four-bedroom apartment. See Exhibit R-1, and DFD Informational Transmittal No. 24-19. Regardless, DFD has the authority to approve amounts in excess of the FMR, and should Petitioner be residing in a two-bedroom apartment, and in keeping with regulatory authority set for at N.J.A.C. 10:90-6.3(a)(6), (7)(i) (1), I find Petitioner eligible for EA/TRA benefits for her current apartment, however, Petitioner is advised that if she must continue to look for more affordable housing. The Agency is directed to incorporate this requirement into Petitioner's EA Service Plan. See N.J.A.C. 10:90-6.6(a). Accordingly, the Agency is directed to provide Petitioner with EA/TRA benefits in the form of back rent in an amount required to bring her current, as well as, prospective EA benefits, provided she remains eligible for same. See Exhibit R-4, and N.J.A.C. 10:90-6.3(a)(5). The Initial Decision is modified to reflect these findings.

By way of comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is REVERSED, as outlined above.

Officially approved final version. January 03, 2025

Natasha Johnson
Assistant Commissioner

