



State of New Jersey

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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 **02518-25 T.K.**

AGENCY DKT. NO. **C603988007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's EA benefits in the form of Temporary Rental Assistance ("TRA"), contending that she had the capacity to plan to avoid her emergent situation, but failed to do so, and that she failed to provide documentation required to determine her EA/TRA benefits eligibility. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 6, 2025, the Honorable Kelly J. Kirk, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 7, 2025, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on February 10, 2025.

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 MODIFY the Agency's determination, based on the discussion below.

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." See also DFD Informational Transmittal ("IT") No. 24-19.

Here, the ALJ concluded that the Agency had failed to prove, by a preponderance of the evidence, that Petitioner had the capacity to plan to avoid her emergent situation. See Initial Decision at 3-8; see also Exhibit R-2, and N.J.A.C. 10:90-6.1(c). I agree. However, the ALJ found, and the record substantiates, that Petitioner had failed to timely provide the Agency with all requested documentation, required to determine her EA/TRA benefits eligibility, and on that basis, the ALJ concluded that the Agency's denial of EA/TRA benefits to Petitioner was proper and must stand. See Initial Decision at 3-4, 7-8; see also Exhibits P-1, P-2, R-2, and N.J.A.C. 10:90-2.2(a)(5). I agree.

Additionally, the record reflects that at the time Petitioner applied for EA/TRA benefits, she was residing in a three-bedroom apartment with a monthly rent of \$2,500, not including utilities, which was over the FMR of \$2,140 for a two-bedroom residence in Essex County, allowable for an assistance unit of two, such as Petitioner's. See Initial Decision at 2-4, 7; see also Exhibits P-3, R-5, and N.J.A.C. 10:90-6.3(a)(7)(i)(1), and DFD IT No. 24-19. Of note, Petitioner's monthly rent is due to increase to \$2,675 in February 2025, and when any utilities she is responsible to pay are added to that monthly rent, she may be well over the FMR of \$2,695 for a three-bedroom apartment, as well. See Initial Decision at 4; see also Exhibit R-1, and DFD IT No. 24-19. Based on the foregoing, I find that Petitioner is also ineligible for EA/TRA



benefits. See N.J.A.C. 10:90-6.3(a)(7)(i)(1). The Initial Decision, and the Agency's determination, are both modified to reflect this finding.

By way of comment, should Petitioner's circumstances change, such as an eviction from her current apartment, or the securing of housing which is within the FMR for Essex County, she may reapply for EA benefits. See Initial Decision at 8. Moreover, it should be noted that it is the "total cost of housing," which therefore includes utility costs, which may not exceed the FMR, and not the rental amount alone. See N.J.A.C. 10:90-6.3(a)(7). Further, Petitioner is advised that the Agency shall determine the most appropriate form of EA benefits required to address her housing needs, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1).

By way of further comment, I have reviewed Petitioner'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 MODIFIED, as outlined above.

Officially approved final version. February 12, 2025

Natasha Johnson
Assistant Commissioner

