



State of New Jersey

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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 **07356-26 C.F.**

AGENCY DKT. NO. **C105032008 (GLOUCESTER COUNTY DIV. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner EA benefits, contending that he had the capacity to plan, but failed to do so, thereby causing his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 13, 2026, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 14, 2026, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on May 15, 2026.

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

In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent 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 to avoid their emergent situation.

In order to be eligible for EA benefits, the recipient must demonstrate that his/her shelter costs equal or exceed the total income available to his/her assistance unit. See N.J.A.C. 10:90-6.1(a)(1). As part of the determination of EA benefits eligibility, the Agency must evaluate all potential contributions of support to the household, including income received by ineligible household members, particularly when determining the amount of temporary rental assistance. See N.J.A.C. 10:90-6.1(c)(2). Further, those individuals who reside with, but are not members of, the assistance unit, are responsible for paying their per capita/pro rata share of the housing costs. See DFD Instruction ("DFDI") No. 08-5-4 at 10-11.

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; or when it is determined that maintaining the unit in the current housing arrangement is both the least costly alternative and serves to preserve the family structure while the search for affordable housing continues." 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 record reveals that Petitioner applied for EA benefits, on April 23, 2026. See Initial Decision at 4; see also Exhibit R-B. On April 30, 2026, the EA application was denied, with the Agency citing that Petitioner had failed to plan, among other rationale. Ibid.; see also N.J.A.C. 10:90-6.1(c). During the prior seven years, Petitioner resided with a friend in a shared apartment, and IN August, 2024, Petitioner and his friend executed a lease. See Initial Decision at 4; see also Exhibit R-5. On September 7, 2025, Petitioner and the two other tenants (now his friend and her paramour) signed an addendum to the existing lease indicating that rent would be \$1,100, plus utilities, beginning December 1, 2025 and adding a child to the lease. See Exhibit R-C. In November, 2025, Petitioner was informed by his friend that she, and her paramour, were leaving the apartment because she had given birth and needed more living space for herself, her partner, and her child, and subsequently she left the apartment in December, 2025, meaning that instead of being responsible for one-third of the rent for the apartment, Petitioner would now be responsible for the entire rental amount. See Initial Decision at 4; see also Exhibit R-C.

Petitioner's friend has not contributed any monies to the cost of the apartment since leaving in December, 2025. See Initial Decision at 4. During January, 2026, Petitioner's mother was able to pay his rent, and during February, 2026, Petitioner used his tax return to pay his rent. Ibid. The apartment landlord utilized Petitioner's security deposit to satisfy the March, 2026 rent. Ibid. Petitioner's landlord has now served Petitioner with an eviction. Ibid.; see also Exhibit R-C.

Petitioner currently has a MED-1 in place until January 1, 2027, and has filed an application for social security benefits; however, his application was denied on May 12, 2026, and he is appealing that decision. Ibid.; see also Exhibit P-1. Petitioner is actively treated by a physician for a variety of mental health issues. Ibid. As such, the ALJ found that Petitioner lacked a realistic capacity to plan, and concluded that the Agency had improperly denied EA benefits to Petitioner. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1(c). I agree that Petitioner is eligible to receive EA benefits.

Although not specifically addressed within the Initial Decision, Petitioner currently resides in a 2-bedroom apartment, where he previously paid one-third portion of the rent based upon his sharing of the apartment. Given the facts presented in this matter, the two-bedroom unit is considered "over-housing" for one adult, and Petitioner would have to find a one-bedroom unit, which does not exceed the fair market rental ("FMR") for Gloucester County of \$1,520, inclusive of utilities. See Division of Family Development Informational Transmittal No. 25-18. Additionally, while Petitioner's current rent itself may be below the FMR for a one-bedroom unit, as properly raised by the Agency in its Exceptions, when utilities are included, it exceeds the FMR. See N.J.A.C. 10:90-6.3(a)(7)(i)(1); see also Exceptions. As such, Petitioner is advised that EA benefits shall be provided to him in a form to be determined by the Agency, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1). Petitioner is encouraged to seek and discuss alternate rental units, within the FMR amount and the being the appropriate size for his assistance unit, including utilities, with the Agency for possible EA/TRA. The Initial Decision is modified to reflect the above findings.

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

Officially approved final version. June 04, 2026

Natasha Johnson
Assistant Commissioner

