



## State of New Jersey

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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 **03684-23 J.A.**

AGENCY DKT. NO. **S586159012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals the correctness of Respondent Agency's immediate need shelter placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 5, 2023, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On that same date, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on May 9, 2023.

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, AFFIRM the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

N.J.A.C. 10:90-1.3(a) states, "All applicants for WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determined that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made." In relevant part, immediate need "means the assistance unit lacks shelter or is at imminent risk of losing shelter." See N.J.A.C. 10:90-1.3(a)(1). Of note, immediate need assistance is not EA, and the termination of immediate need assistance is not appealable.

N.J.A.C. 10:90-9.3(b) states, "[c]ounty or municipal 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, adjustment in the level of benefits or work requirements, or designation of a protective payee." (Emphasis added).

Here, the record reflects that Petitioner was provided with immediate need shelter placement, and that the correctness of that placement is what was at issue in this case. See Initial Decision at 1-2; see also Exhibits at R-5, R-6. While I agree with the ALJ, that the Agency should, with the benefit of now having



knowledge of Petitioner’s mental health issues, consider said issues in determining the appropriate form of immediate need housing, Petitioner was nonetheless provided with the shelter placement at issue, on an immediate need basis. See Initial Decision at 2-4, 6; see also Exhibits R-8, R-9. Pursuant to N.J.A.C. 10:90-1.3(a), immediate need housing placement is only provided to the applicant until a final Work First New Jersey (“WFNJ”) benefits eligibility determination is made by the Agency. Of note, the record reflects that, at the time of the hearing, Petitioner’s applications for WFNJ/General Assistance (“GA”) and EA benefits were still pending. See Initial Decision at 3-4. Since only WFNJ cash assistance recipients and Supplemental Security Income (“SSI”) recipients are eligible for EA benefits, see N.J.A.C. 10:90-6.2(a), the Agency must first determine if Petitioner is eligible for WFNJ/GA benefits in accordance with the criteria set out in N.J.A.C. 10:90-2.2. Once WFNJ/GA eligibility is established, Petitioner must then complete a 28-day employment-related activity through Labor and Workforce Development, prior to receiving cash assistance. See N.J.A.C. 10:90-1.2(f)(8). Therefore, it is only when Petitioner starts receiving WFNJ/GA cash assistance that he may be issued EA benefits by the Agency. See N.J.A.C. 10:90-6.2(a). Based on the foregoing and the record presented in this case, I find that, in accordance with N.J.A.C. 10:90-9.3(b), no adverse action had yet been taken against Petitioner with respect to program eligibility, and immediate need assistance is not considered part of the EA program. Moreover, the ALJ also found that there was no official adverse action that was the subject of this appeal. Id. at 4. Accordingly, I find that the correctness of the Agency’s shelter placement, and the termination of Petitioner’s immediate need assistance, for failure to accept shelter placement, were not appealable, and that the court lacked jurisdiction to hear this matter. See N.J.A.C. 10:90-9.3(b). Id. at 3; see also Exhibit R-7. As such, I conclude that the Agency’s determination must stand. Nevertheless, I am remanding the matter back to the Agency to reevaluate the most appropriate immediate need housing placement for Petitioner, taking into consideration his mental health issues, while Petitioner’s WFNJ/GA application is still pending. See Initial Decision at 2-4; see also Exhibits R-8, R-9. It should also be noted that, once an application for WFNJ benefits is denied, any immediate need assistance ceases. See N.J.A.C. 10:90-1.3(a)(1). The Initial Decision is modified to reflect these findings.

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

Accordingly, the Initial Decision is hereby MODIFIED, the Agency’s determination is AFFIRMED, and the matter REMANDED to the Agency, as outlined above.

Officially approved final version. May 11, 2023

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Natasha Johnson  
Assistant Commissioner

