



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 **01194-23 K.C.**

AGENCY DKT. NO. **C628926007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner EA/TRA benefits, contending that her two-bedroom apartment was over the fair market rent ("FMR") for Essex County. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 10, 2023, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On February 14, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

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.

Pursuant to N.J.A.C. 10:90-6.3(a)(5), EA benefits may be authorized for up to six months of retroactive utility payments if such payments will prevent the loss of utilities or make utilities operable.

N.J.A.C. 10:90-6.3(a)(7) states in pertinent part, "the Agency may authorize [Temporary Rental Assistance] 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 of subsidy level by DFD."

Based on an independent review of the record, I find, and the the record substantiates that effective October 1, 2022, Petitioner's monthly rent is \$1,300, plus utilities. See Exhibit P-9. The record also indicates that Petitioner is behind in her rent for the months of December 2022, and January and February 2023. See Initial Decision at 4. The fair market rent ("FMR") for Essex County, effective October 1, 2022, for a two-bedroom apartment such as Petitioner's, is \$1,606. See DFD Informational Transmittal ("IT") No. 22-13. Based on the foregoing, I concur with the ALJ's conclusion that Petitioner is eligible for EA/TRA benefits retroactive to December 1, 2022, and the ALJ's consequent reversal of the Agency's denial of EA/TRA benefits to Petitioner. See Initial Decision at 4-7; see also N.J.A.C.



10:90-6.3(a)(5). The Initial Decision is modified to reflect the relevant regulatory authority. Moreover, the ALJ found that the Agency failed to provide any records in this matter, and reversed the Agency's determination on due process grounds. See Initial Decision at 1-3, 5-7. I agree.

Additionally, Petitioner testified that she currently owes \$5,000 in past due utility payments, and although she had not provided any documentation to substantiate that claim, based on the testimony provided, and the ALJ's finding that the Agency had made missteps in processing Petitioner's applications, resulting in additional months of past due utility payments owed, I find Petitioner eligible for six months of retroactive utility payments, which may, or may not, amount to \$5,000. See Initial Decision at 2-4, 6; see also Exhibits P-1 through P-8. The Initial Decision is also modified to clarify that regulatory authority only allows for up to six-months of retroactive utility payments. See Initial Decision at 4-6; see also N.J.A.C. 10:90-6.3(a)(5).

By way of comment, as the record indicates that Petitioner has had trouble paying her utilities, the Agency is to refer Petitioner to the appropriate agencies and programs which may be able to assist her, such as the Home Energy Assistance ("HEA"), the Low Income Home Energy Assistance Program ("LIHEAP"), and the Universal Service Fund ("USF").

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

Officially approved final version. February 16, 2023

Natasha Johnson
Assistant Commissioner

