



## State of New Jersey

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TRENTON, NJ 08625-0716

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*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 **08264-22 A.K.**

AGENCY DKT. NO. **C068876002 (BERGEN COUNTY BD. OF SOC. SVCS.)**

Petitioner challenges the correctness of Respondent Agency's authorization of Emergency Assistance ("EA") benefits in the form of a security deposit and first month's rent for housing with a monthly rental amount of up to \$700. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for October 6, 2022, but was adjourned to allow Petitioner the opportunity to obtain and submit documentation. On October 19, 2022, the Honorable Kelly J. Kirk, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 21, 2022, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on November 3, 2022.

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.

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).

Pursuant to N.J.A.C. 10:90-6.3(a)(1), the Agency shall determine the most appropriate form of EA benefits, which may include shelter placement, that are "required to address the need and authorize payment of the costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided." N.J.A.C. 10:90-6.3(a)(1). Temporary Rental Assistance ("TRA") is the preferred form of EA benefits in all circumstances, as appropriate. N.J.A.C. 10:90-6.3(a)(6).

N.J.A.C. 10:90-6.3(a)(7) 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)[.]" Amounts in excess of the current FMR will require prior approval and authorization by DFD. See N.J.A.C. 10:90-6.3(a)(7)(i)(1).



EA benefits are limited to 12 lifetime cumulative months, plus limited extensions for an "extreme hardship." See N.J.A.C. 10:90-6.4(a), (b). A Supplemental Security Income ("SSI") recipient may qualify for one six-month EA extension if the Agency determines that a case of extreme hardship exists pursuant to N.J.A.C. 10:90-6.4(b)(1). See N.J.A.C. 10:90-6.4(c). Thus, the maximum amount of EA benefits that an SSI recipient may receive is 18 months.

The State of New Jersey Senate Bill, No. S866, P.L. 2018, c. 164, effective December 20, 2018 ("S866"), also known as Emergency Assistance for Specific Groups ("EASG"), extends EA benefits eligibility for certain categories of individuals, including, but not limited to WFNJ recipients who are permanently disabled, as documented by a twelve (12) month MED-1 Form, and SSI benefits recipients. See DFD Instruction ("DFDI") No. 19-02-01.

Based on an independent review of the record, I make the following findings regarding the correctness of the Agency's determination. Here, I find that Petitioner is an SSI and Retirement Survivors and Disability Insurance ("RSDI") benefits recipient, with a total monthly income of \$895.25. See Initial Decision at 2; see also Exhibit R-1 at 2-3. I also find, and the record substantiates, that Petitioner has received 23 months of EA benefits. See Initial Decision at 3-4; see also Exhibit R-2 at 1-2. Based on the foregoing, I find that Petitioner has exhausted his 12-month lifetime limit of EA benefits, plus additional EA extreme hardship benefits. See Initial Decision at 3-4; see also Exhibit R-2 at 1-2, and N.J.A.C. 10:90-6.4(a), (b). Although the Agency had not terminated Petitioner's EA benefits due to exhaustion, the record reflects that it will only provide Petitioner with EA benefits in the form of a security deposit and first month's rent for housing with a monthly rental of up to \$800. See Initial Decision at 3-4; see also Exhibit R-1 at 9. However, as Petitioner is an SSI benefits recipient, I find that he may be eligible for an extension of EA benefits in accordance with the EASG pilot, referenced above, and as such, Petitioner is advised that he may apply for said extension. See Initial Decision at 2; see also Exhibit R-1 at 2-3, and S866, and DFDI No. 19-02-01. Should Petitioner apply for an EASG extension, the Agency may provide Petitioner with immediate need housing during the application process, if applicable. I note that the record indicates that Petitioner left his former EA placement, did not contact or proceed to the Agency arranged alternate EA placement, and has not advised the Agency of his current address or whereabouts. See Initial Decision at 2-3. Petitioner is further advised that it is the Agency who shall determine the appropriate form of housing, which may include shelter placement. See N.J.A.C. 10:90-6.3(a)(1). Petitioner is put on notice that if he refuses Agency offered housing, any EA benefits may be terminated, and a six-month period of ineligibility for EA benefits may be imposed upon him. See N.J.A.C. 10:90-6.1(c)(3). Finally, the Agency is advised that TRA is the preferred form of EA benefits, and if Petitioner is found eligible for an EASG extension of EA benefits, and locates housing which is within the FMR for Bergen County, then EA benefits may be provided for such housing. See N.J.A.C. 10:90-6.1(a)(1), -6.3(a)(7). However, Petitioner is also put on notice that EA benefits are temporary, and more specifically, the EASG pilot is scheduled to end on February 20, 2024, and as such, Petitioner is strongly encouraged to apply for, and locate affordable housing in keeping with his monthly income of \$895.25. See Exhibit R-1 at 2-3, see also S866, and DFDI No. 19-02-01. Based on the foregoing, the Agency's determination is reversed. See Initial Decision at 4-5. The Initial Decision is modified to reflect these findings.

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

By way of further comment, as the record reflects that Petitioner vacated his prior EA placement, and did not contact the alternate EA placement, thereby abandoning his EA placement, the Agency is advised to properly notice Petitioner in accordance with N.J.A.C. 10:90-9.1, if it has not already done so.

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



Officially approved final version.

November 10, 2022

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Natasha Johnson

Assistant Commissioner

