



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
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 **09746-22 D.H.**

AGENCY DKT. NO. **C796713007 (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 Petitioner lives in a three-bedroom apartment which is over the Fair Market Rent ("FMR") for the permitted two-bedroom apartment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 28, 2022, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On December 2, 2022, the ALJ issued an Initial Decision, reversing the Agency's determination, and remanding the matter.

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.

Here, the record reflects that Petitioner is a Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits recipient with an assistance unit of two, consisting of herself and her minor child, and that she resides in a three-bedroom apartment. See Initial Decision at 2-3; see also Exhibit R-1 at 17. The record also reflects that Petitioner has court ordered visitation with another minor age child, and that a three-bedroom apartment was needed to accommodate that child during visitation. See Initial Decision at 3-4; see also Exhibits P-1, P-2. The Agency contended that as an assistance unit of two, Petitioner was only permitted to reside in a two-bedroom apartment, with an FMR of \$1,479, and that her three-bedroom apartment, with a monthly rent of \$1,425, plus monthly utilities of \$171, totaling \$1,596 was not permitted, and also over the FMR for the allowable two-bedroom apartment. See Initial Decision at 3-4; see also Exhibit R-1 at 2, 5. Of note, the aforementioned FMR's were in effect at the time of the Agency's denial of EA benefits to Petitioner. See DFD Informational Transmittal ("DFD IT") 21-20; see also Exhibit R-1 at 17-21. Based on relevant regulatory authority, Petitioner's particular circumstances, specifically, the court ordered visitation of her 14-year old child, the need to properly house that child, and the mere \$120 (more accurately, \$117) per month difference



in FMR, the ALJ reversed the Agency's determination, and remanded the matter to the Agency for consideration by DFD to approve an award of retroactive and prospective EA/TRA benefits in excess of the FMR for a two-bedroom apartment in Essex County. See Initial Decision at 5-8; see also Exhibit R-1 at 17-21, and N.J.A.C. 10:90-6.3(a)(6), (7)(i)(1).

Based on an independent review of the record, and taking into consideration Petitioner's specific circumstances with respect to the visitation of her other child, I concur with the ALJ's conclusion, and further, based on the fact that Petitioner's three-bedroom apartment is, now, currently below the FMR for both a two-bedroom apartment at \$1,606, and a three-bedroom apartment at \$2,038 in Essex County, I find that Petitioner is eligible for EA/TRA benefits in the form of back rent, as well as prospective EA/TRA benefits, for her three-bedroom apartment. See Initial Decision at 7-8; see also N.J.A.C. 10:90-6.3(a)(7), and DFD IT 22-13. Based on the foregoing, I find that a remand of this matter, as ordered the ALJ, is unnecessary. Id. at 8; see also N.J.A.C. 10:90-6.3(a)(7)(i)(1). The Initial Decision is modified to reflect these findings.

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

Officially approved final version. December 29, 2022

Natasha Johnson
Assistant Commissioner

