



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 16021-14 S.C.

AGENCY DKT. NO. GA558512 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals Respondent Agency's denial of Emergency Assistance ("EA") because Petitioner's rent exceeds applicable Fair Market Rent ("FMR"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 17, 2014, the Honorable Jesse W. Strauss, Administrative Law Judge ("ALJ"), held an emergent hearing, took testimony, and issued an Initial Decision which reversed the Agency determination based upon a finding Petitioner's proposed rent was nominally greater than the FMR.

No exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I ADOPT the Initial Decision and REVERSE the Agency determination.

The Agency denied EA, and contends Petitioner's rent exceeds the applicable FMR of \$1109.00. Initial Decision at 1-2. The ALJ directed the Agency to grant retroactive and prospective EA based upon findings Petitioner is imminently homeless, and that her proposed rent is minimally more, \$21.00, than the applicable FMR. Initial Decision at 3.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work

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activities without disruption and continue on a path to self-sufficiency. N.J.A.C. 10:90-6.1(a). EA can also be an appropriate form of assistance for WFNJ recipients who are unable to work. N.J.A.C. 10:90-6.1(b).

EA is available when "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 in advance for substitute housing." N.J.A.C. 10:90-6.1(c).

A pending eviction or foreclosure must be documented, either through a tenancy complaint filed by the landlord or an order from a court for eviction or foreclosure. Where such documentation does not exist, a letter from a landlord or other person serving in such capacity ..., subject to agency verification, stating that eviction is imminent or has occurred shall be accepted by the agency." N.J.A.C. 10:90-6.3(a)(1)(ii).

Petitioner's rent is 2 months in arrears, and she has received 3 letters from her landlord threatening a tenancy action. Initial Decision at 2. Until recently, Petitioner's family paid her rent, but is now unable to do so. Ibid. There is no evidence Petitioner had the capacity to plan for substitute housing. N.J.A.C. 10:90-6.1(c).

Work First New Jersey recipients may be eligible for EA in the form of Temporary Rental Assistance ("TRA") "in order to maintain current permanent housing which had been previously affordable but which is no longer affordable ... or when it is determined that maintaining the unit in the current housing is the least costly alternative and serves to preserve the family structure while the search for affordable housing continues. TRA is the preferred form of emergency housing assistance in all situations, as appropriate." N.J.A.C. 10:90-6.3(a)(6).

TRA shall be provided when "the total cost of housing does not exceed the current 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 the [Division of Family Development ("Division)]." N.J.A.C. 10:90-6.3(a)(7)(i)(1).

Petitioner's proposed rent is \$1,130.00, which consists of a base rent of \$1,100.00 and a utility payment of \$30.00. Initial Decision at 2. The FMR for a one-bedroom apartment in Hudson County is \$1,109.00. As such, I agree that the Agency in the first instance appropriately recognized it could not authorize EA for an apartment with above-FMR. However, I agree with the ALJ that in this case, Petitioner's proposed rent is only nominally more than FMR, and therefore concur with the grant of retroactive and prospective EA in the form of TRA, subject to a Service Plan which reflects individualized consideration of Petitioner's need to secure permanent affordable housing. N.J.A.C. 10:90-6.6(a).

Accordingly, the Initial Decision is ADOPTED and the Agency determination is REVERSED.

JAN 13 2015

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director