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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION 1998

BARBARA NEWBY, RIMMA BUADZE,
DIANE SMITH, KATHY DEVINE,
JANEA AVERETTE, MARQUITA BEST,
POLINA BINIASHVILL

Appellants

RINGHOUSE

Docket Nos. :
A-2149-94T3; A-826-94T2;
A-222-94T2; A-827-94T5;
A-3236-94T2; A-2742-94T2;
A-2127-94T5

v.

DEPARTMENT OF HUMAN SERVICES

Respondent

Appeal From Final
Agency Decisions By The
Department -of Human Services

BRIEF AND APPENDIX OF APPELLANTS

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INTRODUCTION

This **consolidated** appeal involves seven homeless families receiving Aid to Families with Dependent Children (AFDC) and temporary rental assistance (**TRA**) under the emergency assistance (EA) component of **AFDC**. These families had their TRA terminated by the Department of Human Services (**DHS**) under a twelve month regulatory time limit without provision for any shelter alternative. Further, **all** shelter assistance was ended despite the families' full compliance with mandated service plans, formulated with their **local** county welfare agency (CWA) **to help** them secure permanent housing. Finally, **appellants'** **TRA** was terminated by DHS in the face of the New Jersey Supreme Court's ruling in L.T. v. N.J. Dent. of Human Services, 13.4 **N.J.** 304 (1993).

In L.T., the Supreme Court directed DHS to provide shelter to homeless recipients of the General Assistance (GA) program at the expiration of a twelve month limit on **TRA**, a time limit identical to the regulatory **limit** at **issue** on this appeal. TRA is a form of emergency assistance (**EA**) **that** enables homeless persons to maintain or rent permanent housing in lieu of more costly placement in **welfare** hotels or motels or emergency shelters; The Supreme Court invalidated the twelve month time limit on **TRA** because the Legislature, in the General Public Assistance Law, N.J.S.A. **44:8-107** et seq., intended that the GA program be administered by DHS "in such a way as to provide temporary shelter to our most neediest citizens. A regulation which terminates TRA without a fall-back provision for shelter conflicts with that ruling." L.T., 134 NJ. at 325.

The same twelve month limit on TRA invalidated by the Court in L.T. is contained in the companion EA program for homeless families receiving AFDC. See N.J.A.C. 10:82-

5.10(f)5i(1). Despite the Court's ruling in L.T., DHS continues to terminate AFDC families from TRA after twelve months, "without a fall-back provision for shelter . . ." L.T., 134 N. J. at 325.

In this brief, appellants contend ^{that} the overarching principle enunciated by the Supreme Court in L.T. invalidating terminations of shelter assistance at an inflexible, arbitrary point in time applies with equal force to the EA program for homeless AFDC recipients. In particular, appellants' will demonstrate that the goals and operation of the EA regulation, and its TRA component, in both the AFDC and GA programs are **virtually** identical; that the statutory source for the L.T. principle has its roots in the New Jersey AFDC law, N.J.S.A. **44:10-1** et seq., which governs the EA regulation challenged in this appeal; that the AFDC Law requires DHS to implement the EA program in a manner that does not "**contemplat[e]** that at the end of a year," AFDC families with children "will be returned to the streets even though they have made every effort to turn their lives around," Id., at 323; that termination of TRA disrupts efforts to resolve the homelessness of AFDC families through implementation of effective service plans; and that the DHS' ad hoc policy of providing **TRA** extensions **in some** cases but not others "undercuts the administrative process." Id., at 322.

For these reasons, this Court should determine that DHS' application of the regulatory time limit to similarly situated homeless AFDC families violates the proper construction of the AFDC statute, as determined by the Court in L.T. and progeny.

PROCEDURAL HISTORY

Each appellant in this consolidated appeal contested the decision of their **local** county welfare agency (CWA) to terminate **TRA** at a fair hearing before the Office of Administrative Law. Appellants obtained initial decisions from an Administrative Law Judge and final decisions from DHS' Division of Family Development (**FDP**) upholding the decision of the CWA to terminate their shelter assistance. Appellants then appealed the final agency decision to this Court and obtained stays of the termination of their shelter assistance. See infra, at 5-15.

On September 15, 1995, this Court granted appellant's motion to consolidate their seven appeals. The Court further **directed** the filing of this joint brief on the merits to address appellants' claims in a single brief.

STATEMENT OF FACTS

The facts regarding appellants' receipt and termination of their TRA shelter assistance, as developed in the record in the administrative proceedings before the Office of Administrative Law and DHS, are discussed separately below.

1. Barbara Newby v. Department of Human Services

Appellant Barbara **Newby (Newby)** is the parent of two minor children. (BNT4-18; Exhibit A, page 5).¹ Ms. **Newby** is an AFDC recipient whose sole source of income is \$424 a month in AFDC benefits and \$281 in food stamp benefits_ from the Atlantic County Welfare Agency (ACWA). (BNT4-19; Exhibit A, page 5). The rent for Ms. **Newby's** two bedroom room apartment is \$525 per month. (BNT5-1; Exhibit A, page 5). From July 1, 1993 through June 30, 1994, the ACWA paid TRA in the amount of \$325 per month to enable Ms. **Newby** to meet her monthly rent obligation and avoid homelessness. (BNT5-4 to 6-19; Exhibit A, page 5). Ms. **Newby** was responsible for paying the remaining \$200 balance in rent, which she paid each month she had received TRA. (BNT6-20 to 7-10; Exhibit A, pages 5, 6). The ACWA terminated TRA effective June 30, 1994 on the basis of the twelve month time limit on TRA. (BNT3-9 to -14; BNT14-7 to -11); Exhibit A, pages 4, 6, 7).

Ms. **Newby's** service plan with ACWA required her to make ten housing searches and five job searches each week. (BNT7-24 to 8-18; Exhibit A, page 5). She also had

¹ "BNT" refers to the transcript of the proceedings before the OAL in Barbara Newby v. Atlantic County Welfare Agency, OAL Docket No. HPW 9496-96. "Exhibit A" refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants' Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with this Court.

previously applied for public and other low-income housing. (BNT12-14 to 13-17; BNT26-1 to -15; Exhibit A, page 6). Ms. **Newby** participated in the JOBS/Family Development Program by doing community work experience as a volunteer in the Social Security Office in **Pleasantville**. (BNT8-12 to -25; BNT24-5 to -25; Exhibit A, page 6). Her work involved filing and other clerical duties, four days a week from **10:00** a.m. to 3:00 p.m. (BNT24-5 to -25; Exhibit A, page 6). The ACWA terminated Ms. **Newby's** TRA, notwithstanding that she had diligently complied with her service plan, (BNT14-1 to -11).

When her **TRA** was **terminated**, Ms. **Newby's** landlord immediately sued her for **eviction** in July 1994. (BNT20-25 to 21-7; Exhibit A, page 7). She applied her security deposit to the rent owed for July to avoid eviction. (BNT21-9 to -25; Exhibit A, page 7). Ms. **Newby** also asked for a fair hearing on the termination of TRA, which was **held** on October 5, 1994. (Exhibit A, page 4).

The **Administrative** Law Judge (**ALJ**) issued an Initial Decision on October 11, 1994. (Exhibit A, page 4). The **ALJ**, relying on **L.T.**, ordered the continuation of **TRA** for four months through December 1994. (Exhibit A, page 8). The ALJ found that Ms. **Newby** had fully complied with all of the conditions of her service plan, **including** the weekly housing and job searches. (BNT10-19 to 11-7; BNT14-1 to -11; Exhibit A, page 8). The ALJ also noted that the **ACWA's** own social worker testified that Ms. **Newby's** "efforts were better than most for housing searches and that she was very cooperative," and that "there would be a negative effect on petitioner in the event she were evicted from her present residence." (BNT15-10 to -16; BNT17-15 to -25; Exhibit A, page 6).

On November 17, 1994, the DFD Director issued a Final Decision upholding the

termination of TRA under the 12 month regulatory time limit. (Exhibit A, page 3). On December 30, 1994, Ms. **Newby** filed a notice of appeal with this Court and thereafter sought an emergency stay from DFD pending appeal. DFD granted continued TRA pending appeal in an Amended Final Decision dated January 31, 1995. (Exhibit A, page 1).

2. **Rimma Buadze v. Department of Human Services**

Appellant **Rimma Buadze (Buadze)** is the mother of two children who receives \$424 in monthly AFDC benefits and \$256 in food stamps for their care and support.² (RBT19-17; Exhibit B, page 8). Ms. **Buadze and** her children emigrated from the Soviet Union in 1992 and, with the help of Jewish Family Services, they rented the Edison apartment in which they currently reside for \$600 per month. Exhibit B, page 8-9).

Ms. Buadze received TRA from the Middlesex County Board of Social Services (MCBSS) when she could no longer afford the apartment with her monthly AFDC grant. Her TRA was terminated under the twelve month limit in January 1994, even though Ms. Buadze had fully complied with her service plan by taking English language courses through the REACH/JOBS and looking for alternate, affordable housing. (RBT10-1; 12-9; 12-22; 14-19). Following her first fair hearing on January 25, 1994, the ALJ found that, based on her efforts, TRA should be extended pursuant to L.T. (Exhibit B, pages 8-10). The DFD Director then upheld the termination but granted a limited 4 months additional TRA provided

2 “RBT” refers to the transcript of the proceedings before the OAL in R.B. v. Middlesex County Board of Social Services, OAL Docket Nos. HPW 415-94 and 6889-94. “Exhibit B” refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants’ Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with **this** Court.

Ms. Buadze “substantiate” enrollment in english classes. (Exhibit B, page 7).

At the expiration of the extension period, MCBSS again terminated Ms. Buadze’s TRA and she had a second fair hearing. At that hearing, the agency conceded that Ms. Buadze had “worked hard” at complying with her service plan **(RBT12-22)**, and had “fulfilled everything that we wanted her to do.” **(RBT31-1)**. Not only did she attend the required BEACH programs **(RBT14-19)**, but also she, on her own initiative, took a dental assistant” course at Brookdale Community College — paid for by the Jewish Federation -- and received a “certificate of completion” for that training program. **(RBT16-12)**.

Thereafter, she had a job interview for a “dental assistant” position **(RBT17-20)**, though no interview had yet produced employment. If she doesn’t get a job, she will “continue with the BEACH program- **(RBT25-10)** In his Initial Decision issued July 29, 1994, **ALJ** Walter Sullivan found, again, that Ms. Buadze had continued to make efforts to advance her education in english and as a dental assistant. **(Exhibit B, page 5)**. On this basis, the **ALJ** granted Ms. Buadze 3 months additional TRA. (Exhibit B, page **6**).

In her Final Decision, the Deputy DFD Director reversed and **upheld** the termination under the regulatory time limit. (Exhibit B, page 2). Ms. Buadze appealed the decision to this Court. On October 28, 1994, the DFD Director issued an Amended Final Decision granting Ms. Buadze a month-to-month extension pending resolution of her appeal. (Exhibit **B, page 1**).

3. Diane Smith v. Department of Human Services

Appellant Diane Smith (Smith) is a 35 year old mother of two children, ages 14 and

3.³ (Exhibit C, page 5). Her sole source of income is \$424 in AFDC benefits and \$276 in food stamps. (DST4) She resides in a one-bedroom apartment in East Orange at a monthly rental of \$552.59. She has lived in this apartment for 18 years. (Exhibit C, page 6).

Ms. Smith's 3 year old daughter has a severe asthma condition. As a result, Ms. Smith needs to care for her during the day. Ms. Smith applied for disability (SSI) for her daughter. (DST28-31). Her initial application was denied and is on appeal. She is also on the waiting list for Section 8 rental housing in the **Arcadian** Housing project in East Orange. (DST25).

In January 1992, Ms. Smith **began** receiving TRA from the Essex County Division of Welfare (**ECDW**). (DST9) Her service plan required her to seek employment. (DST1 1; Exhibit C, page 6). She was terminated by ECDW from **TRA** effective January 1994, or after 13 months of TRA, **and** she requested a fair hearing. **In** his **Initial** Decision, ALJ Sebastian **Gaeta** found her service **plan** was defective **and** that it was **not** "properly individualized" because it did not take **into** account her need to care for a sick child. The **ALJ** recommended continuing TRA conditioned on Ms. Smith's cooperation with an effective service **plan** based on **L.T.** (Exhibit C, page 7). **In** a **Final** Decision dated March 3, 1994, the DFD Director upheld the **termination** of TRA under the regulatory time limit but granted an additional 3 month extension. (Exhibit C, page 4).

Ms. Smith's TRA ended in April 1994. After attempts by Ms. Smith, through

3 "DST" refers to the transcript of the proceedings before the OAL in D. S. v. Essex Division of Welfare, OAL Docket No. HPW 144-94. "Exhibit C" refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants' Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with this Court.

counsel, to obtain another fair hearing failed, she filed a notice of appeal from the March 1994 Final Decision with this Court on September 12, 1994. On November 23, 1994, DFD issued an Amended Final Decision granting TRA from May 1994 through November 1994. On January 23, 1995, Ms. Smith filed a motion for emergent relief with this Court and on January 31, 1995, DFD granted a stay pending appeal in the form of continuing TRA. (Exhibit C, page 1).

4. Kathy Devine v. Department of Human Services

Appellant Kathy Devine (Devine) is the mother of one child. (KDT6-12). Her sole source of income is her AFDC grant of \$322 per month and \$206 in food stamps.⁴ Her rent is \$629 per month. (KDT6-12; 7-6); Exhibit D, page 4).

The Middlesex County Board of Social Services (MCBSS) granted Ms. Devine TRA in April 1993 to enable her to pay her monthly rent and avoid homelessness. Ms. Devine was employed from 1987 through 1991 at Marlboro Psychiatric Hospital as a laundry worker. (KDT11-21). In 1991, she went out on maternity leave, and though she had every intention of returning to this job following her leave, she was not able to do so because her department closed down during her leave. As a result, Ms. Devine lost her job. (KDT13-12).

Ms. Devine's service plan consisted of REACH training for specialized office skills (KDT7-17), and this began August 1993. (KDT8-33). She began with "life skills training,"

4 "KDT" refers to the transcript of the proceedings before the OAL in Kathy Devine v. Atlantic County Welfare Agency, OAL Docket No. HPW 6607-94. "Exhibit D" refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants' Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with this Court.

and started “special office skills training” on February 14, 1994. (KDT9-8). At the conclusion of her twelve months of **TRA**, Ms. Devine needed more time to complete her **BEACH** program. (KDT5-17). The MCBSS requested an extension from DFD and four additional months were granted. (KDT5-21). Ms. Devine’s **TRA** subsidy was increased to **\$437** per month in June 1994 due to an increase in her rent to \$629 per month. (KDT7-2). Ms. Devine’s **BEACH** program concluded **June** 3, 1994 and her **TRA** was continued until July 31 to give her an opportunity to search for work. (KDT7-25; 5-21; 10-7). She has been looking for **office** work, **clerical**, **receptionist**, secretarial or **file** clerk. (KDT13-25). She has had four **interviews** and has other applications pending. (KDT16-3). She uses the job search program and hot line numbers. (KDT16-13). She is still “waiting to hear” and she doesn’t know what she will do if the **TRA** ends prior to her obtaining a job. (KDT14-14; 15-15).

Ms. Devine sought a fair hearing when MCBSS terminated her **TRA** at the expiration of the 4 month extension. In his Initial Decision, **ALJ** Bernard Goldberg found that Ms. Devine completed her **BEACH** program in June 1994, but was unable to **find** employment despite her best efforts. (Exhibit D, page 4). **ALJ** Goldberg granted an additional 2 month extension, or for August **and** September 1994. (Exhibit D, page 5). The DFD Director reversed, upholding the termination of **TRA** under the regulatory time limit. (Exhibit D, page 2). Ms. Devine appealed the **DFD’s** Final Decision and, on October 28, 1994, the DFD Director issued an Amended Final Decision granting her a month-to-month continuation of **TRA** pending appeal. (Exhibit D, page 1).

5. J.A. v. Somerset **County** Board of Social Services

Appellant **Janea** Averette (Averette) receives an AFDC grant of \$424 for herself and

her two children, Dominique, age seven, and Stephen, age three. (TJA5, TJA21-T22).⁵ Ms. Averette became homeless in November 1993. (TJA7, TJA23). At that time, the Somerset County Board of Social Services (SCBSS) placed her and her family in Franklin House, a transitional housing facility. (TJA8, TJA23). SCBSS treated the placement in Franklin House under the **TRA** component of EA. As a result, Ms. Averette was required to contribute one-third of her grant toward the monthly cost for rental of her unit at Franklin House (TJA8).

Ms. Averette received a **notice** from the SCBSS that her **twelve months** of **TRA** would be terminated as of November 30, 1994. Ms. Averette **filed** a timely request for a fair hearing, which was then scheduled for December 7, 1994. At the hearing, the ALJ found that Ms. Averette had complied fully with her service plan, but that she could still not locate affordable housing. (Exhibit E, page 4-5). The **ALJ** issued an Initial Decision dated December 16, 1995 **affirming** the **SCBSS's** action terminating Ms. Averette's **TRA**. (Exhibit E, page 5). The Acting DFD Director then issued her Final Decision, upholding the termination under the regulatory time limit. (Exhibit E, page 2). The Acting Director also issued an Amended Final Decision authorizing continued TRA pending appeal to this Court. (Exhibit E, page 1). Ms. Averette's appeal was filed on February 2, 1995.

6. M.B. v. Somerset County Board of Social Services

Appellant Marquita Best (Best) receives AFDC in the amount of \$322 per month for

⁵ "JAT" refers to the transcript of the proceedings before the OAL in J. A. v. Somerset County Board of Social Services, OAL Dkt. No. 11342-94. "Exhibit E" refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants' Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with this Court.

herself and her daughter, Ondya, age 4, through the SCBSS. (TMB4, TMB17).⁶ In February 1994, Ms. Best and her daughter became homeless. (TMB7, TMB20). The SCBSS placed Ms. Best and her daughter at Franklin House, a transitional housing facility. (TMB7, TMB20). SCBSS treated the placement in **Franklin** House under the **TRA** component of EA. As a result, Ms. Best paid one third of her grant each month towards the cost of her unit at Franklin House while SCBSS paid remaining rent through **TRA**.

By notice dated November 18, 1994, the SCBSS terminated Ms. Best's **TRA** effective November 30, 1994. Ms. Best filed a timely fair hearing request. A hearing was scheduled for December 7, 1995.

At the hearing, the SCBSS conceded, and **ALJ** Bernard Goldberg found, that Ms. Best had fully complied with the requirements in her service plan. (Exhibit F, page 4). The **ALJ's** Initial Decision, dated December 8, 1994, determined that Ms. Best was **entitled to 12 months** of **TRA** and **that** this period would expire in January 1995. (Exhibit F, Page 5). By Final Decision dated January 20, 1995, the Acting DFD Director affirmed the Initial Decision. (Exhibit F, page 2). The Acting Director **filed** an Amended Final Decision dated January 31, 1995 continuing **TRA** pending her appeal to **this** Court. (Exhibit F, page 1). Ms. Best's notice of **appeal** was filed on February 2, 1995.

7. Polina Biniashvill v. Department of Human Services

Appellant Polina Biniashvill is the mother of one child whose sole source of income is

⁶ "MBT" refers to the transcript of the proceedings before the OAL in M.B. v. Somerset County Welfare Agency, OAL Dkt. No. 11282-94. "Exhibit F" refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants' Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with this Court.

\$322 in monthly AFDC benefits.⁷ (PBT15-1; 10-6). She lives in an apartment in Highland Park which rents for \$640 per month. (PBT15-21). Unable to afford her rent, the Middlesex County Board of Social Services (MCBSS) granted her TRA in October 1993. (PBT5-20). After paying back rent for October, and 11 months of TRA, MCBSS terminated the TRA under the twelve month regulatory time limit. (PBT5-24).

Ms. Bianshvilli appealed the **termination** and had a hearing on October 14, 1994. At the hearing, the MCBSS representative stated that Ms. Bianshvilli's service plan was unusual because she was disabled and a plan involving job training was inappropriate. (PBT6-5). Instead, Ms. Biniashvilli's plan required her to apply for SSI disability benefits and to apply for Section 8 rental assistance, (PBT6-5), and to pursue both of these applications. Ms. Biniashvilli took these steps (PBT6-19; 7-3; 7-7), and, in fact, had applied for SSI prior to receiving any TRA from the MCBSS. (PBT12-24). MCBSS, though satisfied that Ms. Biniashvilli "has fully complied with the service plan," (PBT21-8;9-14), asserted that it could not provide further help because it does not appear that anything is going to happen within the "next few months." (PBT8-16). Given the delays that associated with Section 8 and SSI disability **appliciations**, the MCBSS expressed doubt that it "would have approved this case a year **down** the line." (PBT7-16). Ms. Biniashvilli stated that she had looked for cheaper housing but was having problems finding anything appropriate (PBT16-6; 17-12) and she didn't know what she was going to do if she lost her rental assistance. (PBT17-25).

⁷ "PBT" refers to the transcript of the proceedings before the OAL in Middlesex County Board of Social Services v. P.B., OAL Dkt. No. 9188-94. "Exhibit G" refers to the Initial, Final and Amended Final Decisions before the agency below and is contained in the Appendix to Appellants' Brief and Appendix in Support of Motion to Consolidate and Expedite Appeals on file with this Court.

In an Initial Decision on the termination dated October 20, 1994, ALJ Kathryn Clark found that Ms. Biniashvill has applied for SSI for a back injury and that, because of this injury, she is unable to work. (Exhibit G, page 4). Her disability claim is on appeal. Ms. Biniashvill has complied with her service plan by pursuing her disability claim and by applying for Section 8 rental assistance. (Exhibit G, page 4). Despite these facts, ALJ **Clark** upheld the termination of her TRA under the twelve month time limit. (Exhibit G, **page 5**).

The Final Decision **of the DFD** Director upheld the termination. A notice appealing this decision was filed with this Court on December 29, 1994. (Exhibit G, page 2). Ms. Biniashvill then sought an emergent stay which was granted by DFD on January 10, 1995. (Exhibit G, page 1).

ARGUMENT

POINT I

DHS' IMPOSITION OF A TWELVE MONTH TIME LIMIT FOR TRA IS INCONSISTENT WITH THE NEW JERSEY SUPREME COURT'S DECISION IN L.T. v. N.J. DEPT. OF HUMAN SERVICES, 134 N.J. 304 (1993) AND THE AFDC LAW, N.J.S.A. 44:10-1 ET SEQ.

In L.T. v. N.J. Dept. of Human Services, 134 N.J. 304 (1993), the Supreme Court directed DHS to continue TRA to General Assistance (GA)⁸ recipients at the expiration of the twelve month limit set forth in the emergency assistance (EA) regulation for GA. . N.J.A.C. 10:85-4.6(e)(3). In **pertinent** part, the Court concluded that the manner in which **the** DHS imposed the twelve time limit was invalid because the Legislature, in the General Public Assistance Law, intended that the GA program be administered "in such a way as to provide temporary shelter for our most neediest citizens. A regulation which terminates **TRA** without a fall-back provision for shelter **conflicts** with that purpose." L.T. supra, at 325. The Court specifically ruled that:

DHS should not deny future claimants reasonable extensions from available funds unless (1) such claimants. have **failed** to cooperate in the pursuit of effective service plans developed by the local **MWDs** to avert their homelessness or (2) DHS **shall** have designated some other agency of government to provide shelter of last resort.

Id. at 325.

As demonstrated by the facts in these consolidated appeals, developed in the administrative proceedings below, DHS terminated appellants' TRA even though they fully

⁸ GA is a residual or last resort welfare program under which aid is available to needy persons between eighteen and sixty-five years of age who have no minor children. N.J.S.A. 44:8-107, et seq.

cooperated in the service plans formulated by appellants and their county welfare agency (CWA). Further, there is no dispute that DHS, while ending appellants' TRA, did not provide for the continuing shelter needs of these families.

Thus, in light of this record, DHS refusal to extend TRA to appellants, or to otherwise provide for their continuing shelter needs, can only be sustained by this Court if there exists some legally significant distinction between the TRA components of EA in **the** AFDC and GA programs. As explained below, there is no such distinction. To the contrary, there are several compelling reasons why this Court should apply the ruling in L.T. **with** equal force to the **TRA** program for **AFDC families**.

A. The Regulatory Goals and Operation of the AFDC and GA Emergency Assistance Program Are Identical

As in the **GA/EA** regulation at issue in L.T., EA "comprises the [AFDC] program's quick response, short-term mechanism for the provision of shelter to those who have lost or are about to lose their **housing** due to some emergency or unavoidable mishap." Id., at 310.

Indeed, EA, whether in the GA or **AFDC** program, share **the** same regulatory goal.

Compare N.J.A.C. 10:85-4.6(c)(**the** "goal of the **GA/EA** shelter program is to provide for the initial and continuing shelter needs of otherwise eligible GA recipients") and 10: 82-5.10(b)(**the AFDC/EA** program "is thus designed to provide, with reasonable certainty, for **the** initial and/or continuing emergency **shelter/housing** needs of otherwise eligible **AFDC** recipients").

Further, both programs "incorporate an assortment of benefits and services to assist homeless persons." L.T., 134 N.J. at 310; compare N.J.A.C. 10:85-4.6(a)3 and 10:82-5.10(f)2(payment of up to three months back rent to prevent eviction); N.J.A.C. 10:85-4.6(e)

and 10:82-5.10(f)(provision of emergency shelter); N.J.A.C. 10:85-4.6(e)2 and 10:82-5.10(e)2(availability of TRA). Both programs require **the** preparation of an individualized service plan for every EA recipient designed “to resolve the circumstances that produced the individual’s homelessness, and steering the client through the bureaucratic thickets of other programs.” L.T. 134 N.J. at 317; compare N.J.A.C. 10:85-4.6(c)5 and 10:82-5.10(c)5(mandates EA service plans); see also infra at 25.

Moreover, the **TRA** component of the **AFDC/EA** is virtually identical in purpose and in practical operation to the **TRA** program of **GA/EA** at issue in L.T. -Like its GA counterpart, TRA in the **AFDC/EA** program is intended to serve as a more humane and less costly alternative to emergency placement in hotels, motels and shelters. Id., at 310-11; and see N.J.A.C. 10:82-5.10(e)2ii(TRA is available “in lieu of a temporary shelter arrangement”). TRA also works in the same manner in both programs: a rental subsidy of \$250 or more combined with 65% of the recipients’ monthly AFDC grant to meet actual housing rental cost. L.T., 134 N.J. at 311; and see N.J.A.C. 10:82-5.10(e)2iii.⁹

Finally, and of importance to this appeal, TRA is limited in both AFDC and GA to a maximum twelve months, without provision for extension, although “DHS has granted discretionary extensions of **TRA**” on a short-term basis in individual cases. L.T., 134 N.J. at 311; compare N.J.A.C. 10:85-4.6(e)5 and 10:82-5.10(f)5ii(TRA shall not exceed twelve months). However, in response to L.T., DHS issued a program instruction to extend TRA

⁹ The rental subsidy amount for **GA/TRA** is \$200 per month. N.J.A.C. 10:85-4.6(e)2iii(2); L.T., 134 N.J. at 310--11. In both the AFDC and GA programs, the subsidy amount serves only as the minimum amount that can automatically be approved by local welfare agencies. TRA can exceed \$200 (GA) or \$250 (AFDC) with approval from DFD. See N.J.A.C. 10:82-5.10(f)5iii5 (AFDC) and 10:85-4.6(e)2iii4(GA).

beyond twelve months where the recipient is in compliance with the service plan See Division of Family Development, General Assistance Program Instruction No. 93-12-5 (December 29, 1993)(Aa at 2-7).¹⁰ This program instruction states that

[t]he Supreme Court has held that homeless GA clients cannot be terminated from **TRA** at 12 months without provision for further shelter assistance, provided such clients have cooperated in the implementation of effective EA Service **Plans**... **This ruling** means that clients must receive extensions of **TRA** beyond 12 months, except in cases where the agency has provided the recipient an effective service plan and the client has failed to cooperate with that plan.

Aa at 2).

Yet the agency refuses to apply the ruling in L.T. to AFDC families, including appellants. The **only** reason given by DHS for not doing so is the bald statement that the agency "**ha[s]** determined that the decision in L.T. is not applicable in other programs." See Exhibit B, Letter of **William Waldman**, Commissioner, to Melville D. Miller, President, Legal Services of New Jersey (February 4, 1994)(Aa at 1). There can be no doubt that DHS' refusal to extend appellants' **TRA** lacks any justification, legal or otherwise, given the identity of purpose and operation of **TRA** in both programs and in the face of the Supreme Court's careful circumscription of the use such absolute time limits on **TRA** in L.T.

10. DHS also proposed for adoption an amendment to the **GA/EA** regulation which would have required the authorization

of continuing [**TRA**] benefits, without interruption, beyond the 12 month period when an effective service plan has been in place throughout the initial 12 month **TRA** period and the client has fully cooperated with the provisions set forth in that mutually developed service plan.

See 26 N.J.R. 1757 (May 2, 1994). DHS, however, has not adopted the proposal

B. The AFDC Law Forms the Basis For the Ruling in L.T.

The New Jersey AFDC law, N.J.S.A. **44:10-1** et seq., is the statutory source for the principle on which the Supreme Court invalidated the TRA limit for GA recipients in L.T.. In actuality, L.T. simply clarifies the Court's prior rulings in Franklin v. DHS, 111 N.J. 1 (1988) and Williams v. DHS, 116 N.J. 102 (1989), remanded, 121 N.J. 589 (1989), judgment affirmed, 121 N.J. 667 (1990). In these decisions, the Court addressed the validity of a five month time limit on emergency shelter contained in the EA regulation governing **both** the AFDC and GA programs. See L.T., 134 N.J. 310-20 (describing history and scope of Williams and the Court's reliance on Franklin decisions, particularly Franklin, interpreted the AFDC Law, N.J.S.A. **44:10-1** et seq., and the General Public Assistance Law, N.J.S.A. **44:8-107** et seq., as authorizing the termination of EA to homeless AFDC **families** and GA recipients at five months only if the DHS has in place programs to "make reasonably certain that the families previously housed in motels **will find** shelter and eventually housing elsewhere." Franklin, 111 N.J. at 20; and see Williams, 116 N.J. at 125; L.T., 134 N.J. at 313 (describing precedent regarding absolute time limits in EA established in Franklin and Williams for both AFDC and GA programs).

In L.T., the Court merely applied this principle, which had been first enunciated in the context of the **AFDC/EA** program, to invalidate another regulatory time limit imposed by the agency, namely, the twelve month limit that "terminates TRA without a fall-back provision for shelter.. ." L.T., 134 N.J. at 325. There can be no question, therefore, that the statutory underpinnings of L.T. apply with equal, if not with more force, to the application of the same TRA time limit where DHS makes no provision for the continuing shelter needs

of homeless AFDC families.

C. The AFDC Law Requires DHS to Prevent Homelessness

The ruling in L.T. rests upon the Court's reading of the General Public Assistance Law as not "contemplating that at the end of the year, EA recipients shall be returned to the streets even though they have made every effort to turn their lives around." L.T., 134 N.J. at 323. Surely, the AFDC law must be likewise read to prevent **homelessness**, particularly because families with needy dependent children, such as appellants in this **appeal**, are "returned to the streets" at the expiration of the TRA time **limit**. In this regard, the express purposes of the AFDC program are to "provide for the care of eligible dependent children in their own homes . . . under standards and conditions compatible with decency and health" and to "to help maintain and strengthen **family** life." N.J.S.A. **44:10-1(a)(1)** and (2). It is well settled that DHS must implement the **EA** program in accordance with the express provisions of New Jersey's **AFDC** statute. See Franklin, 111 N.J. at 11; Maticka v. City of Atlantic City, 216 N.J. Super. 434,439 (App. Div. 1987).

Further, the express purposes of the AFDC law have been construed as requiring DHS to implement the EA program in a manner that prevents, and does not cause, homelessness among vulnerable **families** with children. In Maticka, this Court invalidated the then-existing "fault standard" in which EA eligibility could only be established if the recipient could demonstrate that he or she had no time to plan to avert the emergency situation causing the need for EA. The Court also addressed the then-existing ninety day limit on emergency shelter to homeless families. Finding that the record before it was insufficient to support a challenge, the Court nonetheless described the scope of emergency

assistance required under the AFDC law as assistance that is sufficient to carry a family through their entire period of homelessness:

Clearly, the concept of emergency assistance was to provide a bridge over the abyss of temporary homelessness. On the other hand, we cannot conceive of legislative approval of a bridge which does not span the abyss but simply comes to an end in the middle of the void.

Id. at 453 (emphasis added).

With regard to time limits on emergency shelter, the Court stated that "[t]he present maximum time limit 'of the emergency assistance regulation ought to provide an adequate period for the location of substitute permanent housing for displaced families.' " Id. (emphasis added). Accord, Franklin v. Department of Human Services, 111 N.J. 1, 20 (1988) (Regulation terminating emergency shelter assistance to homeless AFDC recipients after five months valid under AFDC law, provided other programs are in place to "make reasonably certain that the families previously housed in motels will find shelter and eventually housing elsewhere. ")

Nothing in the AFDC law authorizes DHS to impose an arbitrary twelve month limit on TRA to families, such as appellants, who are threatened with homelessness. Rather, the explicit command of this statute directs DHS to provide assistance and appropriate services, in a manner that maintains and strengthens family life. **There** is simply no statutory authority for DHS to limit TRA to appellants in the face of their families' compelling need for a basic necessity for survival.

Moreover, the arbitrary twelve month TRA limit conflicts with the purpose and objectives of the AFDC law as construed by this Court in Maticka v. City of Atlantic City,

216 N.J. Super. 434 (App. Div. 1987). In these appeals, it is undisputed that appellants have made diligent searches for affordable housing and have otherwise complied with their service plans, but given their limited monthly AFDC assistance, no alternative housing is available that they can afford-without EA. It is also undisputed that because of DHS' twelve month time limit on **TRA**, appellants and their children will be forced into a state of **homelessness**. It is clear that the twelve month time period falls woefully short of satisfying the directives of the AFDC law as interpreted in Maticka and **Franklin in** that it "does not span the abyss but simply comes to an end in the middle of the void." Maticka at 453. By depriving appellants of continued TRA, despite their undisputed need, and thereby causing the disruption, if not disintegration, of the basic existence of these families, DHS' time limit on TRA completely undermines the fundamental objective of **AFDC**: to "maintain and strengthen family life." N.J.S.A. 44:10-1(a).

D. Terminating TRA Disrupts Implementation Of EA Service Plans And Resolution Of Appellants' Homelessness

As discussed above, the **AFDC/EA** regulation, like the **GA/EA** regulation at issue in L.T., requires **the** preparation and **implementation** of a service plan for **all** recipients of TRA. Indeed, the service plan is at the heart of the **AFDC/EA** regulation, bringing individual attention and case management to each family, in an effort to access **all** available resources so that the family can "ultimately obtain affordable permanent housing." N.J.A.C. 10:82-5.10(e).

The regulation spells out in great detail the required content of the service plan. The plan must be developed for every family within ten days of authorization of EA or **TRA**. N.J.A.C. 10:82-5.10(e)2iv. The plan must be "individualized" and "aimed at addressing

those circumstances which contributed to the family's homeless situation and limit its ability to secure and/or maintain permanent housing (for example, insufficient funds, substance abuse, mental illness)." Id.

Next, the regulation specifies the components that must be addressed in each EA service plan: the family's responsibility to search for permanent housing, document the housing search, "pursue" subsidized housing, and use any other community resource to secure housing. N.J.A.C. **10:82-5.10(e)1i**; and the **responsibility** of the local agency "to assist the family to secure permanent **housing**" by assessing the family's needs and referring the family to the Social Security Administration and other agencies for services and to the Family Development Program (**FDP**) for available job training and education. N. J.A.C. **10:82-5.10(e)2i**, iv(1) and (2).

To underscore the importance of the EA service plan, the regulation requires that it be in writing, prepared at a meeting with the family, signed by the client and the local welfare agency, given to the client, and **reevaluated** and revised "as warranted by changes in the client's EA shelter needs and/or other pertinent circumstances." N.J.A.C. **10:82-5.10(e)2iv(1)** and v. A family's noncooperation with the service plan "shall render the client ineligible for continuing EA benefits." N.J.A.C. **10:82-5.10(e)1ii**.

In L.T., the Court underscored the importance of "effective" service plans as a means to address barriers inhibiting access to affordable housing more quickly, thereby lessening the overall time EA is needed. The Court noted the "parallel goals" behind the EA service plan and those declared by the Legislature in enacting the Family Development Program (FDP), an enhanced job training and education program for AFDC families, and how those

goals are undermined by arbitrarily terminating **TRA** recipients at twelve months. In pertinent part, the Court states that

If an effective service plan is generated, public cost may be lessened. The Commissioner should give the agency's regulation a chance to work: before termination of [TRA] benefits, he should require that an effective service plan be developed. By insisting on adherence to that element of the TRA program, the Commissioner would **fulfill** the promise of change . . . particularly fulfillment of the parallel goals of the Family Development Act, L. 1991, c.523.

Id., 134 N.J. at 322 (emphasis added).

Appellants all had service plans prepared **by their** local welfare agencies and all fully cooperated and complied with the requirements of those plans. As in L.T., imposition of the arbitrary twelve month time limit would impede the efforts of both family and the local agency to resolve the family's homelessness.

E. The DHS' Practice of Granting Ad Hoc Extensions Violates the New Jersey APA.

While DHS declines to apply the ruling in L.T. to terminations of **TRA**, the agency follows an ad hoc policy of granting individualized extensions in accordance with standards not contained in the regulation or in any sub-regulatory program instruction. This practice of granting individual extensions is reflected in the record on this appeal. While, for example, appellants Barbara **Newby** and Polina Biniashvilli had their **TRA** terminated without extension by DHS, the agency granted four and three months' extensions to appellants **Rimma** Buadze and Diane Smith to enable them to complete education or to seek employment and housing. Compare Exhibit A, page 2 (Barbara **Newby**) and Exhibit G, page 2 (Polina Biniashvilli) **with** Exhibit B, page 7 (**Rimma** Buadze) and Exhibit C, page 4 (Diane Smith).

In its present form, the EA regulation does not authorize extensions of TRA beyond twelve months, under any circumstances. Nonetheless, DHS grants extensions in some cases and not others, employing vague standards not expressed anywhere in the regulation. The grant of extensions without first promulgating an appropriate regulation is a clear violation of the New Jersey Administrative Procedure Act, N.J.S.A. **52:14B-1** et seq., as interpreted in Metromedia, Inc. v. Director of the Division of Taxation, 97 N.J. 313 (1984).

The law is well settled as to when an agency is required to act through formal rules or regulations. N.J.S.A. **52:13B-2(e)** defines an “administrative rule” as “each agency statement of general applicability and continuing effect that implements or **interprets** law or policy.” In Metromedia, the Supreme Court held that an agency must adopt formal rules and regulations when its action

(1) is intended to have wide coverage encompassing a large segment of the regulated public, rather than an individual or a narrow select group; (2) is intended to be applied generally and uniformly to all similarly situated persons; (3) is designed to operate only in future cases, that is prospectively; (4) prescribes a legal standard or directive that is not otherwise expressly provided by or obviously inferable from the enabling statutory authorization; (5) reflects an administrative policy that (i) was not previously expressed in any **official** and **explicitly** agency determination, adjudication or rule, or (ii) constitutes a material or significant change from a clear, past agency position on the identical subject matter; and (6) reflects a decision on administrative regulatory policy in the nature of an interpretation of law or general policy.

The DHS’ determination to grant TRA extensions at the expiration of twelve months plainly **utilize** standards which bring the actions within the criteria **enunciated** in Metromedia, and thus constitute an administrative rule. First, they potentially impact upon all AFDC/EA recipients who receive shelter in the form of TRA. Second, the policy of granting extensions applies “generally and uniformly” to all EA recipients of TRA. Third,

the policy sets out the circumstances, however vague, under which TRA recipients can obtain an extension and is thus prospective in operation- Fourth, the policy is not expressly inferable from the AFDC law. Fifth, the policy was not clearly expressed by DHS in previous agency rules. Finally, an extension policy clearly reflects a general policy determination by the agency. See Petition of Patterson Counseling Center, 237 N.J. Super. 240, 247 (App. Div. 1989); Maticka, 218 N.J. Super. at 452 (“any further interpretation of the [EA] regulation which the [DHS] undertakes with the intention that it bind the administration of AFDC emergency assistance throughout the state can only be effected by an exercise of the formal rule-making power. ”)

The practice of granting ad hoc extensions, conducted outside the regulatory arena, was also used in the TRA program in GA and was expressly condemned by the Court in L.T.

Characterizing the individualized extension practice as a “paradox,” **the** Court states

That the DHS would continue to provide benefits to **those** who have found work and would be able to **find** housing, but would not provide continuing shelter to those who are unable to find either work or housing, is a paradox. Furthermore, that DHS would create standards for extensions of TRA such as the one quoted above, which is not found in the regulations and does not fulfill the requirements of the DHS safety net as established by Williams, undercuts the administrative process.

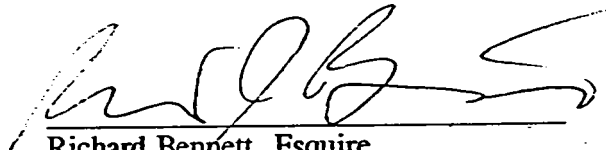
L.T., 134 N.J. at 322.

Thus, DHS practice for granting extensions of TRA to some AFDC recipients but not others violates the basic requirements for proper administrative rulemaking established by the New Jersey **APA** and should be invalidated by this Court.

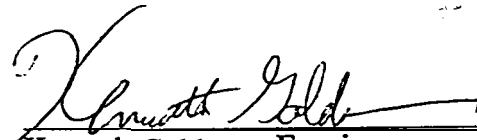
CONCLUSION

For the reasons set forth in this brief, appellants respectfully request that the Court reverse DHS final **administrative** decisions on these appeals and direct the agency to provide appellants' continuing TRA, subject to appellants' compliance with their EA service plans.

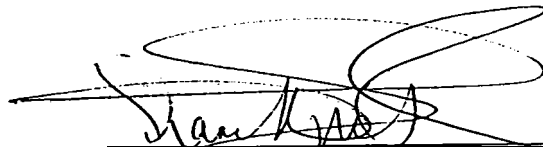
Respectfully Submitted,



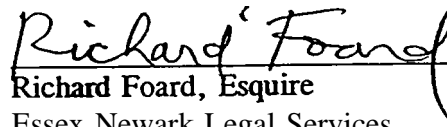
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Diane K. Smith, Esquire
Elizabeth Szabo, Esquire
Somerset Sussex Legal Services



Richard Foard, Esquire
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Dated: October 30, 1995



FEB 9 1994

State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
CN 700
TRENTON, NEW JERSEY 066250700
(609) 292-3717

WILLIAM WALDMAN
Commissioner

February 4, 1994

Melville D. Miller, Jr. President
Legal Services of New Jersey
100 Metroplex Drive at Plainfield Ave.
Suite 402
P.O. Box 1357
Edison, New Jersey 08818-1357

Dear Mr. ^{Doc} Miller,

This is in response to your recent letter regarding the Supreme Court decision in the case of L.T. v. Department of Human Services.

As you may know, the Division of Family Development has issued a program instruction to municipal welfare departments advising them of the requirements of the Supreme Court decision. We are in the process of moving expeditiously to propose the necessary rule changes in the General Assistance Program.

While I appreciate your concern regarding recipients of temporary rental assistance (TRA) through the Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) programs, we have determined that the decision in L.T. is not applicable in other programs.

However, we are cognizant of the need for low income housing. We are not a housing agency. There is a need to discuss this issue with the new administration and with other leaders and interested persons including the legislature and business community. I have alerted the Governor's office to this decision and the possibility of future litigation in this area.

Thank you for your continuing assistance on behalf of recipients of public assistance in New Jersey.

Sincerely,

William Waldman
Commissioner

WW:14

AA1



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
CN 716
TRENTON, NEW JERSEY 08625-0716
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LEGAL SERVICES OF NEW JERSEY

JAN 5 1994

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WILLIAM WALDMAN
Commissioner

MARION E. REITZ
Director

December 29, 1993

General Assistance Program Instruction No. 93-12-5

TO: MUNICIPAL WELFARE DIRECTORS

SUBJECT: EXPIRATION OF TEMPORARY RENTAL ASSISTANCE (TRA)

This Program Instruction is to advise you of the decision of the New Jersey Supreme Court concerning the 12 month time limit on temporary rental assistance and what steps must be immediately taken to ensure that this decision is properly followed in all appropriate cases. This decision, L.T. v Department of Human Services, was issued by the Court on December 15, 1993.

The Supreme Court has held that homeless GA clients cannot be terminated from TRA at 12 months without provision for further shelter assistance, provided such clients have cooperated in the implementation of effective EA Service Plans. The Court emphasized that an effective EA Service Plan is an "individualized plan of action aimed at working toward securing permanent shelter and also where directly related to securing such shelter, at resolving the circumstances that contributed to" the client's emergency situation as required under N.J.A.C. 10:85-4.6(c)5. This ruling means that clients must receive extensions of TRA beyond 12 months, except in cases where the agency has provided the recipient an effective service plan and the client has failed to cooperate with that plan.

The Department is in the process of preparing revisions to the EA regulation to implement this decision. In the interim, MWDs must extend TRA payments in all cases where a client has received 12 months of TRA under the applicable

regulation. MWDs may not terminate TRA at 12 months without such extensions unless the agency can demonstrate (1) that an effective and individualized EA Service Plan has been in place throughout the initial 12 month TRA period, and (2) the client has failed to cooperate with the requirements in that Service Plan.

MWDs are reminded that, for every TRA client, an individualized EA Service Plan must be developed within five working days of initial authorization of TRA, as required under N.J.A.C. 10:85-4.6(c)5. In developing the EA Service Plan with clients, all of the elements specified in N.J.A.C. 10:85-4.6(c)6 must be considered for inclusion in the plan, as appropriate. Particular attention must be given to assessing whether clients are potentially eligible for existing federal and state housing programs (Section 8 and public housing) and, if so, MWDs must assist the client in making application for such programs with local public housing authorities (PHAs) or the New Jersey Department of Community Affairs.

Effective immediately, therefore, the MWD shall, for all new and ongoing cases, develop an individualized service plan with the client that is realistically aimed at resolving the client's TRA-dependency and which establishes reasonably required activities based on the client's capabilities and limitations. The service plan shall include other required components; in --addition to permanent housing search activities, that will be taken into consideration in determining whether or not the client will be provided with TRA benefits beyond 12 months. Those other required components may include; as appropriate, job search and training activities and rehabilitation/counselling services. In development of *this* portion of the service plan, the MWD shall take into consideration the limitations of the client, for example, if a client is not job ready the MWD has the responsibility for developing a plan that would include training based on the client's capabilities. If the client is determined to be job ready and a job search activity is agreed to, then the MWD shall be responsible to take into consideration the local job market limitations in determining the number of job contacts the client must complete monthly.

It should be noted that the service plan is to be mutually developed so that the client can realistically be expected to comply with the required activities. Refusal, without good cause, to develop a service plan or to cooperate with the conditions set forth in the service plan shall render the client ineligible for continuing EA/TRA benefits until such time as cooperation has been resumed. MWDs are reminded that the client is entitled to written notice, inclusive of appeal rights, concerning any denial or

termination decision made by the MWD in accordance with N.J.A.C 10:85-4-6(d)-

In addition, all clients appropriately classified as unemployable must be assessed for potential eligibility for Supplemental Security Income (SSI) at the time TRA is initially authorized. If potentially eligible, MWDs must take steps to assist clients in applying for SSI with the Social Security Administration and for monitoring the progress of such applications throughout the TRA period. MWDs are also reminded that those clients who are classified as employable should be referred to appropriate and available job training or should be assisted directly in searching for employment. Finally, any client who expresses a need for drug or alcohol treatment or counselling should be referred to such programs, if available and appropriate.

MWDs are reminded of the provisions of N.J.A.C. 10:85-4.6(c)5 which authorize termination from the EA program when a client refuses, without good cause, to cooperate with the requirements in the Service Plan "that are directly related to the recipient's search for permanent housing or the initial development of the service plan." MWDs must be prepared to present documentation in any case where the MWD seeks to deny an extension of TRA beyond 12 months on the basis of client noncooperation.

The MWD must document a client's compliance or lack thereof in all areas on a monthly basis. In addition the MWD must document its compliance with services to be provided to the client on a monthly basis.

The attached Addendum to the service plan shall be used to identify those additional required activities that the client will be expected to complete. This Addendum shall be signed by both the MWD and the client. Use of this Addendum shall be implemented immediately for all new TRA cases and at the time of next monthly review for ongoing TRA cases.

For new and current TRA cases, MWDs shall be responsible for determining ongoing TRA eligibility on a monthly basis. Such determinations shall be based on the client's compliance with the activities set forth in the service plan and the Addendum to the service plan.

For those cases whose TRA time period expired and who reapply for TRA benefits, the MWD shall make a determination of whether the TRA should be extended based on that client's compliance with his or her previously developed service plan. If the TRA is to be continued in such instances, a new service plan including the Addendum is to be developed. For those cases that have been issued a notice of termination of TRA but whose benefits have not been terminated yet, the case must be reviewed and appropriate

action initiated based upon a client's past compliance and current needs. In such cases, the addendum must be completed if TRA is to be continued.

To assist you in implementing these new requirements, an outline of steps to comply with the Supreme Court decision has also been attached for your use. This information is to be brought to the attention of appropriate staff. Questions may be directed to your field representative.

Sincerely yours,

Marion E. Reitz KH
Marion E. Reitz
Director

MER:HEC:CB

Attachment

c: Larry J. Lockhart
Associate Commissioner

County Welfare Agency Directors

Department of Community Affairs

Department of Labor

Department of Health

OUTLINE OF STEPS TO COMPLY WITH SUPREME COURT DECISION
CONCERNING TEMPORARY RENTAL ASSISTANCE (TRA) EXTENSIONS

1. EFFECTIVE IMMEDIATELY ALL ONGOING CASES MUST HAVE A SERVICE PLAN IN PLACE WHICH INCLUDES THE NEW ATTACHED SERVICE PLAN ADDENDUM. ALL NEW CASES MUST HAVE A SERVICE PLAN DEVELOPED WHICH INCLUDES THE ADDENDUM. IN ADDITION TO THE HOUSING SEARCH COMPONENTS, WHICH HAVE ALWAYS BEEN INCLUDED IN THE SERVICE PLAN, THE NEW ADDENDUM MUST:

BE AIMED AT RESOLVING THE CLIENT'S TRA DEPENDENCY AND ESTABLISH REASONABLE ACTIVITIES BASED ON THE CLIENT'S CAPABILITIES/LIMITATIONS.

INCLUDE OTHER REQUIRED COMPONENTS IN ADDITION TO PERMANENT HOUSING SEARCH/ACTIVITIES, SUCH AS: JOB SEARCH, TRAINING AND REHABILITATION/ COUNSELLING SERVICES WHICH HAVE BEEN MUTUALLY DEVELOPED AND AGREED TO WITH THE CLIENT.

BE SIGNED BY BOTH THE CLIENT AND THE MWD.

BE EVALUATED MONTHLY TO ENSURE THAT THE CLIENT IS IN COMPLIANCE WITH THE REQUIREMENTS AND TO ENSURE THAT THE MWD HAS FULFILLED ITS OBLIGATIONS. CLIENT AND MWD COMPLIANCE MUST BOTH BE DOCUMENTED MONTHLY.

2. FOR ALL ONGOING CASES , THE ADDENDUM IS TO BE COMPLETED AT THE NEXT MONTHLY REVIEW FOR ONGOING CASES THAT ALREADY HAVE A COMPLETED SERVICE PLAN.

3. THE MWD SHALL MAKE A DETERMINATION OF WHETHER A TRA SHALL BE EXTENDED FOR CASES WHOSE TRA TIME PERIOD EXPIRED PREVIOUS TO IMPLEMENTATION OF THE SUPREME COURT DECISION BY REVIEWING THE CLIENT'S COMPLIANCE WITH THE PAST SERVICE PLAN. IF THE CLIENT REAPPLIES FOR TRA AND HAD COMPLIED WITH THE PREVIOUS SERVICE PLAN REQUIREMENTS, THE CLIENT IS ELIGIBLE FOR THE EXTENSION. IF THE CLIENT DID NOT COMPLY WITH THE PREVIOUS SERVICE PLAN REQUIREMENTS, THE CLIENT IS INELIGIBLE FOR THE EXTENSION.

4. FOR THOSE CASES THAT HAVE BEEN ISSUED A NOTICE OF TERMINATION OF TRA BUT WHOSE BENEFITS HAVE NOT YET BEEN TERMINATED, THE CASE MUST BE REVIEWED FOR CONTINUED ELIGIBILITY AND ACTION TAKEN BASED ON PAST COMPLIANCE WITH THE PREVIOUS SERVICE PLAN.

5. REFUSAL WITHOUT GOOD CAUSE TO DEVELOP A SERVICE PLAN OR A SERVICE PLAN ADDENDUM ON THE PART OF A CLIENT OR REFUSAL TO COOPERATE AND COMPLY WITH THE CONDITIONS SET FORTH IN THE SERVICE PLAN SHALL RENDER THE CLIENT INELIGIBLE FOR TRA BENEFITS UNTIL COOPERATION IS RESUMED.