



State of New Jersey

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Director

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 15984-18 T.B.

AGENCY DKT. NO. S613893012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner failed to comply with his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for December 14, 2018, but was adjourned, at the request of Petitioner, so that he could retain counsel. On January 18, 2019, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 31, 2019, the ALJ issued an Initial Decision, affirming the Agency's termination of Petitioner's EA benefits, and reversing the imposition of a six-month EA ineligibility penalty.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, 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, as discussed below.

N.J.A.C. 10:90-6.3(g) states that, "[p]rior to EA termination, the agencies shall review, with the recipient, the reason(s) for the termination. If additional barriers are identified that may have prevented EA compliance, then the recipient is considered to have good cause and shall not be terminated and a penalty shall not be imposed. The recipient shall be required to follow through with services to address those barriers for continued EA eligibility. Such services shall be identified as mandatory activities in the [SP]."

Here, the record reflects that Petitioner executed several SPs, wherein he agreed, among other things, to "accept permanent affordable housing if it is offered to [him]." See Initial Decision at 2-3; see also Exhibits C-H. Petitioner failed to submit required paperwork on two of the apartments offered to him by the Agency, and failed to keep an appointment with the landlord at the third apartment offered to him, and as a result, the Agency terminated Petitioner's EA benefits and imposed a six-month EA ineligibility



penalty for failure to comply with his SP. See Initial Decision at 3-4; see also Exhibit O, and N.J.A.C. 10:90-6.6(a). The ALJ found, the Agency acknowledged, and the record substantiates, that Petitioner has mental health issues. See Initial Decision at 4; see also Exhibits A, C-L. The ALJ also found that Petitioner's mental state contributed to his inability to find housing, but nevertheless affirmed the Agency's termination of EA benefits. See Initial Decision at 5; see also N.J.A.C. 10:90-6.6(a). The ALJ did, however, reverse the Agency's imposition of a six-month EA ineligibility penalty due to Petitioner's mental health. See Initial Decision at 5. I respectfully disagree with the ALJ's conclusion that the Agency's termination of Petitioner's EA benefits was proper. Rather, I find, and the record indicates, that Petitioner had been compliant with his mental health treatment, yet it does not appear that the Agency took into consideration Petitioner's mental health issues prior to its termination of his EA benefits. See Exhibits C-L. Based on the foregoing, and in accordance with N.J.A.C. 10:90-6.3(g), I find that Petitioner had good cause for failing to comply with his SP, and as such, that the Agency's termination of Petitioner's EA benefits on the basis of SP noncompliance, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. The Initial Decision is modified to reflect this finding.

By way of comment, as the record indicates that Petitioner has mental health issues which prevent him from compliance with EA benefits eligibility requirements, Petitioner "shall be required to follow through with services to address those barriers for continued EA eligibility." See Initial Decision at 2-3; see also Exhibit R-4, and N.J.A.C. 10:90-6.3(g). Further, "such services shall be identified as mandatory activities in the [SP]." See N.J.A.C. 10:90-6.3(g), -6.6(a)(1)(iii)(7). Finally, Petitioner is advised that any future violation of his SP, or refusal to accept permanent housing when offered, may result in the termination of EA benefits and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.6(a).

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

Officially approved final version.

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Natasha Johnson  
Director

MAR 08 2019

