



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 09084-19 T.R.

AGENCY DKT. NO. S613510012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits, contending that he 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 July 30, 2019, but Petitioner failed to appear. Subsequent hearing dates were also scheduled for August 23, 2019, and September 20, 2019, but both were adjourned with the consent of the parties. On October 15, 2019, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open to allow Petitioner the opportunity to provide supplemental information. Additional documents were provided by Petitioner and the record then closed on October 18, 2019.

On November 7, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, Petitioner, a Supplemental Security Income ("SSI") benefits recipient, executed two SPs wherein he agreed, among other things, to abide by shelter rules, including the prohibition against the use or possession of drugs, and to attend substance abuse/mental health counseling or treatment with his private medical provider, and provide verification of compliance, monthly. See Initial Decision at 2-3; see also Exhibits R B, R F. Of note, as an SSI benefits recipient, in accordance with applicable regulatory authority, Petitioner cannot be referred to the Work First New Jersey ("WFNJ") Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") program. See Initial Decision at 4, 9-10; see also N.J.A.C. 10:90-18.1 et seq. By notice dated June 24, 2019, the Agency terminated Petitioner's EA benefits, contending that he failed to comply with his SP by failing to verify compliance with required substance abuse/mental health treatment, and for the use and possession of drugs in violation of shelter rules. See Initial Decision at 3-4; see also Exhibit R-L, and N.J.A.C. 10:90-6.6(a).

The ALJ found that Petitioner suffers from substance abuse/mental health issues, and that he had provided credible testimony, as well as documentation, establishing that he has been actively engaged in treatment programs required to address those issues through October 2019. See Initial Decision at 5-10; see also Exhibits P-1 through P-6, R-O. Moreover, in accordance with applicable regulatory authority, the ALJ found that the Agency had known about Petitioner's substance abuse/mental health



issues, yet prior to its termination of his EA benefits, it had failed to take into consideration whether such barriers prevented Petitioner from complying with his SP, thereby establishing good cause for such noncompliance. See Initial Decision at 9-10; see also N.J.A.C. 10:90-6.3(g). Further, the ALJ found that the Agency had not provided competent evidence to establish that Petitioner had violated shelter rules by using and/or possessing drugs on the shelter premises. See Initial Decision at 9-10; see also N.J.A.C. 1:1-15.5(a), (b). Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits was improper and must be reversed. See Initial Decision at 11; see also Exhibit R-L. I agree. The ALJ also found that Petitioner was not properly noticed of the Agency's claims that Petitioner had violated his SP by failing to abide by the shelter curfew policy and by failing to seek permanent housing, and as such, the ALJ found that the bases for the Agency's termination of EA benefits could not now, at the time of the hearing, be amended to include new violations. See Initial Decision at 10-11. I also agree.

Exceptions to the Initial Decision were filed by the Agency on November 14, 2019.


As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, as Petitioner is not a WFNJ benefits recipient, the Agency cannot refer him to the SAI/BHI program. See Initial Decision at 11; see also N.J.A.C. 10:90-18.1. However, the Agency is directed to revise Petitioner's SP to incorporate directives appropriate to Petitioner's particular circumstances, including appropriate housing placement and substance abuse/mental health treatment. See Initial Decision at 11; see also N.J.A.C. 10:90-6.6(a). Additionally, Petitioner is advised that failure to comply with his SP may result in a six month period of ineligibility for EA benefits. Ibid.

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

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

Officially approved final version.



Natasha Johnson
Assistant Commissioner

