



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 14006-19 J.N.

AGENCY DKT. NO. C059513005 (CAPE MAY 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 she had exhausted her lifetime limit of EA benefits, plus all available extensions, and that she had failed to comply with her 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 October 31, 2019, but was adjourned at the request of Petitioner's counsel. On November 21, 2019, the Honorable Dorothy Incarvito-Garrabrant, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On December 11, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reflects that Petitioner has received 25 months of EA benefits, and as such, she has exhausted her lifetime limit of EA benefits, plus two six-month extreme hardship extensions. See Initial Decision at 2; see also Exhibit R-1 at 28-39, and N.J.A.C. 10:90-6.4(a), (b), (d). The record also reflects that Petitioner executed an SP wherein she agreed to participate in mental health counseling, and that she admittedly failed to do so. See Initial Decision at 5-6. Of note, Petitioner does not have a current MED-1 form. See Initial Decision at 2. The Agency determined that Petitioner did not qualify for any available EA benefits extensions, and that she had failed to comply with her SP by failing to attend required mental health treatment, and as such, terminated Petitioner's EA benefits and imposed a six-month EA ineligibility penalty. *Id.* at 2-3; see also Exhibit R-1 at 22-24. Petitioner claims that she is eligible for a Family Violence Option ("FVO") waiver of the EA benefits time limit, and requested that she be referred for an FVO assessment in order to determine her eligibility for an extension of EA benefits. See Initial Decision at 4-5; see also N.J.A.C. 10:90-20.1 *et seq.* However, the ALJ found that Petitioner had not had contact with her alleged abuser for over a year, that her last year's FVO assessment indicated that there was "no safety risk" to Petitioner, and that Petitioner's circumstances had not changed, such that a new FVO risk assessment would be necessary. See Initial Decision at 2-3, 9. Further, the ALJ found Petitioner's claims of abuse contradictory, and her actions inconsistent with such claims. *Id.* at 6-7. Based on the testimony and evidence provided, the ALJ concluded that another FVO assessment referral for Petitioner is not warranted, and that Petitioner does not meet any



of the criteria for an extension of EA benefits. Id. at 9. The ALJ also concluded that Petitioner failed to comply with her SP by failing to participate in mental health counseling. Id. at 7. Accordingly, the ALJ concluded that the Agency's termination of Petitioner's EA benefits was proper and must stand. Id. at 9; see also Exhibit R-1 at 13-15, and N.J.A.C. 10:90-6.4(a), (b), (d), -6.6(a). I agree.

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 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.

Additionally, because I concur with the ALJ's conclusion that Petitioner failed to comply with her SP, I hereby affirm the Agency's imposition of a six-month EA ineligibility penalty upon Petitioner. See Initial Decision at 7; see also Exhibit R-1 at 13-15, and N.J.A.C. 10:90-6.6(a). Because Petitioner has been receiving continued assistance pending the outcome of the fair hearing, her six-month EA ineligibility penalty shall begin to run as of the date of the issuance of this Final Agency Decision.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless. Additionally, the Agency shall provide Petitioner with those services needed to address any disabilities that she may have.

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

Officially approved final version.

Natasha Johnson
Assistant Commissioner

JAN 16 2020

