



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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SARAH ADELMAN
Commissioner

SHEILA Y. OLIVER
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TRENTON, NJ 08625-0716

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 **10975-22 R.R.**

AGENCY DKT. NO. **C169825011 (MERCER COUNTY BOARD 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 Petitioner violated motel placement rules and failed to comply with his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for an Emergent hearing. On December 13, 2022, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a telephone conference with the parties, and on December 14, 2022, the ALJ held a telephonic plenary hearing, took testimony, and admitted documents. On December 15, 2022, the ALJ issued an Initial Decision, reversing the Agency's treatment of this as an emergent fair hearing.

Here, the ALJ found that the hearing in this matter was inappropriately transmitted as an emergent matter, and as such, Petitioner had not been afforded the opportunity to mount a defense, resulting in prejudice to Petitioner. See Initial Decision at 6-7, 10-13; see also Exhibits P-1, P-2, P-3, R-16, R-17, and N.J.A.C. 10:90-9.17 and N.J.A.C. 1:10-12.2. Also, taking into consideration Petitioner's particular mental health issues, the ALJ concluded that it was inappropriate to prosecute this action through the Emergent hearing proceeding, and further concluded that Petitioner is entitled to proceed through the traditional fair hearing process. See initial Decision at 7-13; see also Exhibit R-18. I agree, and as such, I find that rendering a Final Agency Decision on the merits of this case at this time would be inappropriate and counter-productive.

Therefore, as Assistant Commissioner, Division of Family Development, Department of Human Services, I hereby REMAND this case back to the OAL, in accordance with N.J.A.C. 1:1-18.7(a), and direct that the matter be relisted as a non-emergent matter, to be heard anew by the Honorable Carl V. Buck, III, to accept further testimony and documentation from the parties, as necessary, and issue a new Initial Decision on the merits presented in this matter. See N.J.A.C. 1:1-9.1, and N.J.A.C. 1:10-9.3. Further, Petitioner will receive continued assistance pending the outcome of the relisted hearing.



By way of comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency (“DCPP”), the Agency is directed to forward a copy of the Initial and Final Decisions to DCPP, as applicable. See Initial Decision at 7.

Accordingly, this case is REMANDED to the OAL, as outlined above.

Officially approved final version.

January 19, 2023

Natasha Johnson

Assistant Commissioner

