



# State of New Jersey

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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 15891-24 L.M.

AGENCY DKT. NO. C124153007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, and imposed a six-month EA ineligibility penalty, contending that she failed to accept shelter placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 14, 2024, the Honorable Aurelio Vincitore, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 15, 2024, the ALJ issued an Initial Decision, affirming the Agency's denial of EA benefits to Petitioner, and reversing the Agency's imposition of a six-month EA ineligibility penalty.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, 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, AFFIRM in part, and REVERSE in part, the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

Here, the ALJ found, and Petitioner admitted, that she had failed to accept shelter placement when offered. See Initial Decision at 2-3. The record also reflects that prior to the shelter placement at issue here, the Agency asked Petitioner if she had any limitations or disabilities, and she solely advised the Agency that she suffers from depression. *Ibid.* However, Petitioner testified that she had refused the shelter placement due to transportation issues and physical limitations, which the ALJ found had not been communicated to the Agency. *Id.* at 3. Of note, the record reflects that Petitioner did not testify that her depression caused her to refuse the shelter placement, and moreover, she failed to provide any documentation to substantiate her mental health claim. *Id.* at 2-4. Additionally, the ALJ found that Petitioner has not seen a mental health physician, nor is she taking medication for depression. *Id.* at 4. Based on the foregoing, the ALJ found that Petitioner had not taken all reasonable steps to avoid her emergent situation, and as such, the I find that the Agency's denial of EA benefits to Petitioner was proper and must stand. *Id.* at 4-5; see also N.J.A.C. 10:90-6.1(c)(3). The Initial Decision is modified to reflect this finding. See Initial Decision at 4-5.

With respect to the Agency's imposition of a six-month EA ineligibility penalty, based on Petitioner's presentation at the hearing, the incident surrounding her termination from a previous shelter placement, and the absence of family and friends, the ALJ found that Petitioner may indeed be suffering from mental illness, and as such, concluded that the imposition of a six-month EA ineligibility penalty was not appropriate at this time. *Id.* at 3-4. However, the ALJ reversed the Agency's imposition of such penalty, contingent upon the Agency referring Petitioner for a regulatory required mental health assessment, and should such health assessment confirm that Petitioner does not suffer with mental illness, then the six-month EA ineligibility penalty may be revisited. *Id.* at 4. I respectfully disagree, and I find that, should Petitioner's



mental health assessment indicate no mental health condition, or if Petitioner fails to participate in such assessment, then the Agency's six-month EA ineligibility penalty shall stand. See N.J.A.C. 10:90-6.1(c)(3). Should Petitioner's assessment indicate that she does indeed suffer from a mental health condition, then there shall be no six-month EA ineligibility penalty imposed, and the Agency shall assist Petitioner in reapplying for EA benefits. The Initial Decision is also modified to reflect these findings. See N.J.A.C.10:90-6.3(i)(1).

By way of comment, the Agency is directed to refer Petitioner to Substance Abuse Initiative/ Behavioral Health Initiative ("SAI/BHI") program, on an expedited basis, and is directed to provide Petitioner with immediate need shelter pending the outcome of said SAI/BHI assessment. See N.J.A.C. 10:90-18.1 et seq.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED in part, REVERSED in part, and REMANDED to the Agency, as outlined above.

Officially approved final version. November 26, 2024

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Natasha Johnson  
Assistant Commissioner

