



# State of New Jersey

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TRENTON, NJ 08625-0716

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*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 **05625-23 T.O.**

AGENCY DKT. NO. **S635290012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's termination of Work First New Jersey/General Assistance ("WFNJ/GA"), and Emergency Assistance ("EA"), benefits. The Agency terminated Petitioner's EA benefits, contending that she violated the terms of her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. An emergent hearing was initially scheduled for June 28, 2023, but the matter was then rescheduled for a plenary hearing on August 1, 2023. Petitioner failed to appear for that hearing, but her failure to appear was explained, and the hearing was then rescheduled for October 13, 2023. The matter was again rescheduled for October 24, 2023. On that final date, the Honorable Judith Lieberman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open until October 26, 2023, to allow the parties the opportunity to submit additional documents. Both parties submitted documents by that date, and additional time was given to the Agency to submit documents which had been requested by the ALJ. The Agency submitted the requested documents on November 8, 2023, and the record then closed. On November 17, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on November 21, 2023.

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, and AFFIRM the Agency's determination based on the discussion below.

Here, the record reflects that Petitioner had executed SPs, wherein she agreed, among other things, to conduct weekly housing searches and to provide proof of such searches to the Agency, and that the Agency had advised Petitioner multiple times of her requirement to provide proof of such searches. See Initial Decision at 2-3; see also Exhibits R-2, R-13, and N.J.A.C. 10:90-6.6(a). Further, in those executed SPs, Petitioner was required to comply with her mental health treatment programs, including the Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") program. See Initial Decision at 4; see also Exhibits R-2, R-13, R-14, and N.J.A.C. 10:90-6.6(a). The ALJ found that Petitioner knew that she had an obligation to conduct and provide proof of housing searches, but that her mental health issues may have prevented her from complying with that requirement. See Initial Decision at 3-4; see also Exhibits R-3, R-14. Based on record provided, the ALJ found that Petitioner's failure to comply with her obligation to conduct and provide housing searches may have stemmed from her persistent mental health issues, that the Agency had knowledge of her mental health issues as demonstrated by its requirement that Petitioner continue to participate in her private mental health counseling and to participate in the SAI/BHI program, and that the Agency had failed to prove that it had considered Petitioner's mental health barriers prior to its termination of her EA benefits, as required by regulatory authority. See Initial



Decision at 3-6, 9; see also Exhibit R-7, and N.J.A.C. 10:90-6.3(g). Accordingly, the ALJ concluded that the Agency's termination of Petitioner's EA benefits was improper, reversed the Agency's determination, ordered the Agency to reevaluate Petitioner's eligibility for EA benefits based on her current mental health circumstances, and to develop an SP with the appropriate provisions necessary to address any ongoing limitations associated with Petitioner's mental health. See Initial Decision at 7-9; see also Exhibit R-6, and N.J.A.C. 10:90-6.3(g). Based on the foregoing, the ALJ recognized that hereafter, the continued provision of EA benefits to Petitioner would be conditioned upon her taking the steps necessary to address any ongoing compliance barriers associated with her mental health, and that failure to comply with requirements to address any such barriers, without good cause, would result in the termination of her EA benefits, and the imposition of a six-month period of ineligibility for EA benefits. See Initial Decision at 9; see also N.J.A.C. 10:90-6.3(g). I respectfully disagree.

Rather, based on an independent review of the record, I find that by Petitioner's own admission, her mental health condition did not, and does not, prevent her from conducting the required housing searches as required by her SPs. See Initial Decision at 5. Moreover, the record also indicates that the Agency had addressed Petitioner's mental health issues by referring her to the SAI/BHI program, which Petitioner had stopped participating in, and had stopped responding to outreach from SAI/BHI. See Initial Decision at 4; see also Exhibit R-7. Of note, it also appears from the record that Petitioner has failed to provide proof that she is participating in her private mental health treatment program, as also required by her SP. See Initial Decision at 8; see also Exhibits R-2, R-7, R-14. Although the regulations contemplate special treatment of someone suffering from a mental impairment, they do not contemplate continued EA benefits for an individual who refuses to take part in the required mental health programs, as directed. See Exhibits R-7, R-13, and N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g). Based on the foregoing, I affirm the Agency's determination. See Exhibit R-6; see also N.J.A.C. 10:90-6.6(a). However, although regulations allow for a six-month period of ineligibility for EA benefits, based on Petitioner's particular mental health circumstances, I find that she may reapply for EA benefits, and the Agency shall assist her with such reapplication, as necessary. See Initial Decision at 2-3, 6-7; see also Exhibit R-7, and N.J.A.C. 10:90-6.6(a). Further, Petitioner is advised that should she be found eligible for EA benefits, she is required to engage in mental health services/treatment(s), and to participate in the SAI/BHI program, and that such requirements shall be incorporated into her SP. See N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g), -6.6(a)(1)(iii)(7). Petitioner is further advised that failure to follow through with services to address those barriers may again result in a termination of EA benefits and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.6(a). The Initial Decision is modified to reflect these findings.

By way of comment, the transmittal in this matter indicates that Petitioner also appealed a termination of WFNJ/GA benefits. However, at the time of the hearing, the ALJ found that Petitioner did not lose WFNJ/GA benefits, as she was reapplied for such benefits on June 5, 2023. See Initial Decision at 2 fn1. Therefore, Petitioner's WFNJ/GA issue is now moot, and not addressed in this Final Decision.

By way of further comment, Petitioner is advised that should she be denied EA benefits, she is without prejudice to request a fair hearing on that denial.

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

Officially approved final version. February 15, 2024

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Natasha Johnson  
Assistant Commissioner

