



DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 14933-14 M.S.

AGENCY DKT. NO. GA483307 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits because he refused mental health treatment at an Agency referred mental health provider, and, thereafter, refused placement in a residential health care facility. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 5, 2015, the Honorable W. Todd Miller, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On May 12, 2015, the ALJ issued his Initial Decision, reversing the Agency's determination.

Exceptions to this Initial Decision were filed by the Agency on May 21, 2015.

A Response to the Agency's Exceptions was filed by Petitioner on May 26, 2015.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

The record shows that Petitioner's service plan ("SP") requires his compliance with a mental health program. See Initial Decision at 2. Here, the Agency terminated Petitioner's EA benefits because he refused mental health treatment with the mental health provider referred by the Agency. *Id.* at 1-2; see also R-1 at 2. Additionally, the record shows that although Petitioner refused to go to the Agency referred

treatment program, he voluntarily enrolled in a mental health intensive outpatient program ("MHIOP"), where he completed a 90-day program, and where his overall progress was considered "good." *Id.* at 3; see also Exhibit P-1. Also, Petitioner continues to attend ongoing outpatient treatment. *Ibid.* Accordingly, the ALJ found, and I concur, that Petitioner's attendance at MHIOP satisfied compliance with his SP. See Initial Decision at 3, 6. Moreover, I find that the Agency did not provide any evidence to show that Petitioner's attendance at MHIOP was not sufficient to meet his SP requirement. Therefore, the Agency improperly terminated Petitioner's EA benefits.

Further, at issue was Petitioner's refusal of placement at an Agency referred residential health care facility. See *id.* at 3. The ALJ found that N.J.A.C. 10:90-6.3(a) does not authorize or compel residential mental health facility placements, particularly when there is no expert medical opinion to support such a placement, therefore, the Agency was directed to provide Petitioner with EA benefits, with the placement decision guided by N.J.A.C. 10:90-6.3(a)(1). See *id.* at 6.

While I agree with the ALJ that N.J.A.C. 10:90-6.3(a) does not authorize or compel residential health facility placements, the Agency still retains the authority to determine the most appropriate form of emergency housing required to address the needs of the individual seeking EA benefits, which shall include placement in shelters, hotel/motel placement, transitional housing, or shelters for victims of domestic violence. See N.J.A.C. 10:90-6.3(a)(1). Accordingly, if an individual suffers from a mental/physical impairment and it is determined that the available forms of EA placements are not appropriate for that individual, based on that individual's circumstances, then EA would not be available to that individual. Here, the record does not indicate that Petitioner cannot be placed in any of the available forms of EA placement, and therefore, I concur with the ALJ that Petitioner is to be provided with EA benefits, in accordance with N.J.A.C. 10:90-6.3(a)(1). Additionally, the Agency may provide Petitioner with placement in accordance with N.J.A.C. 10:90-6.3(a)(7), if appropriate.

By way of 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 in this matter is hereby ADOPTED and the Agency's determination is REVERSED.

Signed Copy on File
at DFD, BARA

JUN 08 2015

Natasha Johnson
Director