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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 **09055-24 A.J.**

AGENCY DKT. NO. **C141315020 (UNION COUNTY DIVISION 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 EA ineligibility. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner had failed to pay his required 30 percent of his total household income towards his EA placement, in violation of his EA service plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 9, 2024, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On July 10, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received from either party.

As Assistant Commissioner, 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 hereby MODIFY the ALJ's Initial Decision and MODIFY the Agency's determination in this matter, based on the discussion below.

"Recipients of emergency assistance ["EA"], including those receiving [Supplemental Security Income ("SSI")], shall contribute 30 percent of their total household income towards payment of all emergency shelter arrangements, including utilities" See N.J.A.C. 10:90-6.5(a).

Pursuant to N.J.A.C. 10:90-6.1(c)(7), "Emergency assistance is likewise available in situations where there is an indication that an individual, or a parent and his or her children, have left their customary residence and that the unit is in a state of homelessness due to imminent or demonstrated domestic violence which imperils the health and safety of the eligible unit."

In cases where past or present domestic violence ("DV") exists, pursuant to the WFNJ Family Violence Option ("FVO") Initiative, the Agency is required to refer EA applicants for a FVO risk assessment, which "includes a safety and service plan strategy consistent with the identified needs and safety concerns of the individual," as determined by the individual and by the Agency's risk assessor. See N.J.A.C. 10:90-20.1(b)(1)(i). Further, a service plan prepared for applicants seeking EA because of DV, or the risk thereof, must be coordinated with the recommendations contained in the FVO risk assessment. See N.J.A.C. 10:90-20.1(b)(1)(ii).

The salient facts in this matter are whether or not Petitioner did, in fact, pay his portion of his income towards his EA placement, in accordance with applicable regulatory authority, and whether or not he was provided with notice of that requirement. *Ibid.*; see also N.J.A.C. 10:90-6.5(a) (stating that all EA recipients, including SSI benefits recipients, are



required to pay 30% of their total household income towards their EA placement). Both the ALJ and the Agency rely on N.J.A.C.10:90-6.6(a), the service plan regulation, as the basis for the EA termination in this matter. See Initial Decision at 4-5; see also Exhibit R-2. While that may be the applicable regulation in some comparable cases, the facts in this case show that the Agency did not provide an executed copy of the service plan at the hearing. See Initial Decision at 5, fn 1. Nonetheless, based on the documentary evidence in this case, it is clear that the Agency provided notice to Petitioner of what his 30 percent of his total household income was that was to be paid directly to the motel. See Exhibit R-3. This notice, together with the fact that Petitioner, an SSI benefits recipient, who has received EA benefits for some time, is conclusive that Petitioner knew what portion of his income he was to pay to the motel each month, as required by regulation. Ibid.; see also N.J.A.C. 10:90-6.5(a). Moreover, at the hearing, Petitioner admitted that he paid his 30 percent portion for February, 2024, but thereafter only paid \$100 for the month of May, 2024. See Initial Decision at 2; see also Exhibit R-4. Based on the failure to comply with N.J.A.C. 10:90-6.5(a), I find that the Agency's termination of Petitioner's EA benefits was proper. Furthermore, I find that whether or not Petitioner failed to comply with any other requirements of his EA service plan is irrelevant in this case. See Initial Decision at 5. The Initial Decision and the Agency's determination are hereby modified to reflect the applicable legal basis in this matter.

With respect to the imposition of a six-month period of EA ineligibility, as no executed copy of Petitioner's EA service plan was presented at the hearing, I find that no six-month EA ineligibility penalty shall be imposed, and Petitioner is without prejudice to reapply for EA benefits. The testimony provided by Petitioner at the hearing is conflicting as to whether or not Petitioner is presently homeless or imminently homeless as the result of various court filings, and no copies of such documentation were provided. See Initial Decision at 3. Further, Petitioner is asserting that he is a victim of domestic violence, and cannot stay at a shelter. Ibid. Therefore, should Petitioner choose to reapply for EA benefits, he should provide copies of any relevant court documentation with respect to an eviction. See N.J.A.C. 10:90-6.3(a)(1)(ii). Further, based on Petitioner's claimed assertion that he is a victim of domestic violence, the Agency shall refer Petitioner for the required FVO assessment. See N.J.A.C. 10:90-20.1(b)(1)(i). The Initial Decision and Agency's determination are further modified to reflect these findings.

By way of comment, the Agency is advised that, should Petitioner reapply for, and be awarded further EA benefits, it may look outside of Union County for an appropriate housing placement for Petitioner, as necessary, and Petitioner is advised that it is the Agency who shall determine the appropriate form of housing required to meet his needs, which may include out-of-county shelter placement. See N.J.A.C. 10:90-6.3(a)(1). Further, Petitioner is advised that refusal of EA placement may result in the termination of his EA benefits and the imposition of a six-month period of ineligibility for EA benefits. See N.J.A.C. 10:90-6.1(c)(3).

By way of further comment, I note that proof of two prior evictions, one from 2018, and the other from August, 2021, placed into the record in this case, are too remote in time for consideration of Petitioner's EA benefits eligibility. See Exhibits R-5 and R-8.

Accordingly, the Initial Decision in this matter is hereby MODIFIED, and the Agency's determination is also MODIFIED, as outlined above.

Officially approved final version. July 17, 2024

Natasha Johnson
Assistant Commissioner

