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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

REMAND DECISION

OAL DKT. NO. HPW 09481-18 C.B.

AGENCY DKT. NO. C082510012 (MIDDLESEX COUNTY BD. 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 ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that he failed to comply with his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 31, 2018, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 3, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on August 14, 2018.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and AFFIRM the Agency's determination, and REMAND the matter to the Agency, based on the discussion below.

On April 25, 2018, Petitioner and S.M., the mother of Petitioner's three children, applied for EA benefits. See Initial Decision at 2; see also Exhibit R-1. On that same date, Petitioner and S.M. entered into a SP wherein they agreed, among other things, to complete at least 10 searches for permanent housing per week by contacting potential landlords, to submit housing search logs to the Agency, and that Petitioner would apply for Supplemental Security Income/Social Security Disability Insurance ("SSI/SSDI") benefits. See Initial Decision at 2-3; see also Exhibit R-2 at 3, 4. On May 29, 2018, S.M. executed a new SP wherein she agreed, among other things, to attend a Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") evaluation and participate in SAI/BHI recommended treatment, and to submit weekly job search logs. See Initial Decision at 3; see also Exhibit R-5 at 2, 3.

However, the record reflects that Petitioner and S.M. failed to comply with their SP requirements, resulting in the Agency's termination of their EA benefits. See Initial Decision at 3; see also Exhibit R-13, and N.J.A.C. 10:90-6.6(a). Specifically, Petitioner testified that he did not apply for SSI/SSDI benefits, as required by the April 25, 2018, SP, and S.M. acknowledged that she never completed any job search logs to send to the Agency, as required by her May 29, 2018, SP. See Initial Decision at 4, 5; see also Exhibits R-2, R-5. Further, the ALJ found that Petitioner and S.M. failed to provide the required number of housing contacts and written logs of those contacts to the Agency. See Initial Decision at 8; see also Exhibits R-2, R-5. However, regarding S.M.'s SAI/BHI compliance, the ALJ found that the documentary evidence relied upon by the Agency, specifically, the Case Worker Referral Response Forms, constituted hearsay, and therefore, was unreliable as proof of Petitioner's non-compliance with her SP requirement. See Initial Decision at 6; see also Exhibits R-10, R-11, and N.J.A.C. 1:1-15.5(a), -15.5(b). Accordingly, the ALJ found that S.M. did not violate the



terms of her May 25, 2018, SP by failing to comply with the substance abuse treatment recommendations of the SAI/BHI program. See Initial Decision at 6-7; see also R-5.

Based on the foregoing, the ALJ concluded that Petitioner and S.M., violated the terms of their SPs by failing to submit the required number of contacts with landlords and the written logs of those contacts to the Agency, by failing to apply for SSI/SSDI benefits, and by failing to complete job searches, without good cause. See Initial Decision at 4, 5, 8. Therefore, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and its imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 8-9; see also Exhibit R-13, and N.J.A.C. 10:90-6.6(a). I agree.

However, because it appears from the record that S.M. has an open case with DCP&P, she and Petitioner may be eligible for EA benefits even though they have been found to have caused their own homelessness. See Exhibit R-13 at 1; see also N.J.A.C. 10:90-6.1(c)(6) (stating that "[i]n consultation with [DCP&P], EA benefits shall be provided to a [DCP&P] family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements," inclusive of all EA time limits). See DFDI Instruction ("DFDI") 05-12-03 at 2. In order for Petitioner and S.M. to be eligible for EA benefits, DCP&P must agree to consult with the Agency and coordinate a DCP&P plan, along with the Agency's SP and Individual Responsibility Plan. See N.J.A.C. 10:90-6.1(c)(6)(i); see also DFDI 05-12-03 at 2, 5.

Further, Petitioner and S.M. are to be provided with continued assistance, pending the Agency's consultation with DCP&P, and DCP&P's commitment to coordinate its plan with the aforementioned Agency plans. If, however, DCP&P does not agree to work with the Agency in accordance with the requirements set forth in the DFDI, Petitioner and S.M.'s EA benefits will be terminated and a six-month period of ineligibility for EA benefits will be imposed. See N.J.A.C. 10:90-6.1(c)(3), -6.3(c)(5), and DFDI 05-12-03. A copy of the Initial and Final Decisions in this matter shall be forwarded to DCP&P.

By way of comment, because Petitioner and S.M. will be receiving continued assistance pending the outcome of the Agency's consultation with DCP&P, their six-month EA ineligibility penalty shall begin to run as of the date of the issuance of DCP&P's refusal to work with the Agency in accordance with DFDI 05-12-03, should such instance occur.

By way of further comment, I have reviewed Petitioner's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is AFFIRMED, and REMANDED to the Agency, based on the discussion above.

Officially approved final version.

SEP 11 2018

Natasha Johnson
Director

