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*Director*

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 00254-19 L.S.

AGENCY DKT. NO. C064095001 (ATLANTIC CO. DEPT OF FAM. & COM. DEV)

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 she failed to comply with her EA service plan ("SP") by failing to report a change in household composition. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for February 8, 2019. During the prehearing conference the matter was adjourned by joint request for further investigation and for the submission of additional documentation. On February 22, 2019, the Honorable Jeffrey R. Wilson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On March 12, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reflects that Petitioner executed an SP wherein she agreed, among other things, to notify the Agency of any changes in household composition, and income. See Initial Decision at 2-3; see also Exhibit R-1 at 33-36. At the time Petitioner applied for EA benefits, she represented on her application that she and her husband ("F.S.") were separating. See Initial Decision at 2; see also Exhibit R-1 at 6. However, pursuant to an Agency face-to-face investigation, it was determined that F.S. was indeed residing with Petitioner. See Initial Decision at 3-4; see also Exhibit R-1 at 30-31, 37-39. Specifically, when F.S. was questioned, he stated that he lived in the home with Petitioner. Ibid. Petitioner had failed to inform the Agency that F.S. had moved back in with her and failed to report his income. Ibid.; see also Exhibit R-1 at 37-39. As a result, the Agency terminated Petitioner's EA benefits for failing to comply with her SP, and imposed a six-month EA ineligibility penalty. See Initial Decision at 3-4; see also Exhibit R-1 at 1-5, and N.J.A.C. 10:90-6.6(a). After the initial fair hearing was adjourned on February 8, 2019, the Agency conducted a further investigation, surveilled Petitioner's residence, and again determined that F.S. was living at her residence. See Initial Decision at 4-5; see also Exhibit R-1 at 40-45. Moreover, the record indicates that F.S. was being delivered food from the Meals on Wheels Program at Petitioner's residence, and had registered for that program using her address. See Initial Decision at 6. Petitioner claims that F.S. does not reside with her, but that she allows him to eat, bathe and sleep in the home. Ibid. Petitioner further testified that she keeps her husband's motorized wheelchair in her home for her husband's safety, and that she sometimes uses it herself. Ibid.

The ALJ found that Petitioner's testimony was not credible and was contrary to the evidence presented, and afforded it no weight. Id. at 6-7. Based on the testimony and evidence presented, the ALJ found that Petitioner's husband resides with her, and that Petitioner had violated the terms of her SP by failing to notify the Agency of the change in her household composition. Id. at 8. Accordingly, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. Ibid.; see also Exhibit R-1 at 1-5, and



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N.J.A.C. 10:90-6.6(a). I agree. Of note, the record also reflects that Petitioner and F.S.'s combined monthly income is sufficient to pay the rent going forward, and on that basis, Petitioner would also be ineligible for EA benefits. See Initial Decision at 3; see also Exhibit R-1 at 32, 37-42, and N.J.A.C. 10:90-6.1(a)(1).

Exceptions to the Initial Decision were filed by Petitioner on March 25, 2019.

As the Director of the 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 concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, because Petitioner has been receiving continued assistance pending the outcome of the fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of issuance of this Final Agency Decision.

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.

Officially approved final version.

APR 11 2019

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Natasha Johnson  
Director

