



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
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 04014-19 N.R.

AGENCY DKT. NO. S442889001 (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 he failed to comply with his EA service plan ("SP") by failing to comply with mandatory activities. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. Hearings were initially scheduled for April 18, 2019, and May 10, 2019, but were adjourned. On June 21, 2019, the Honorable Kathleen M. Calemme, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On July 12, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, Petitioner executed an SP, as well as an Addendum thereto, wherein he agreed, among other things, to participate in a mental health assessment on March 6, 2019. See Initial Decision at 2-3; see also Exhibit R-1 at 38-42, 46. However, Petitioner failed to attend that appointment, and by notice dated March 31, 2019, the Agency terminated his EA benefits, effective April 30, 2019, and imposed a six-month EA ineligibility penalty. See Initial Decision at 1; see also Exhibit R-1 at 1-5, 52, and N.J.A.C. 10:90-6.6(a). Petitioner testified that he did not attend that appointment because a mental health assessment was not necessary, and as such, asserted that he was not required to comply. See Initial Decision at 4, 6. Petitioner also testified that he had contacted the mental health facility and was told that because he had indicated that he did not have a substance abuse problem, the program was not the place for him. *Id.* at 4. Based on Petitioner's multiple evictions and witnessed exhibited behaviors, the ALJ found that the Agency acted reasonably, and in accordance with regulatory authority, when it required Petitioner to participate in a mental health assessment. *Id.* at 3-4, 7; see also Exhibits P-1 at 5-10, R-1 at 53, 59-63, and N.J.A.C. 10:90-6.1(c)(1)(iii), -6.6(a)(1)(iii)(7). The ALJ also found that Petitioner had consented to a mental health assessment when he executed the Addendum to his SP, that such assessment was mandatory, and that Petitioner did not dispute his non-compliance with the SP. See Initial Decision at 3-4, 6; see also Exhibit R-1 at 42. Based on the foregoing, the ALJ concluded that Petitioner failed to comply with his SP, without good cause, and therefore, the Agency's termination of Petitioner's EA benefits was proper and must stand. See Initial Decision at 7-8; see also Exhibit R-1 at 1-5, and N.J.A.C. 10:90-6.6(a). I agree.



However, based on the Agency's testimony and concerns regarding Petitioner's mental health issues, the ALJ strongly recommended that no six-month EA ineligibility penalty be imposed upon Petitioner if he submits to a mental health assessment and is found in need of care. See Initial Decision at 6, 8; see also Exhibit R-1 at 1-5, and N.J.A.C. 10:90-6.6(a). I also agree, and direct the Agency to schedule Petitioner for another mental health assessment. See N.J.A.C. 10:90-6.3(i)(1). The Agency's determination is modified to reflect this finding. Petitioner is advised that if he fails to attend the scheduled mental health assessment appointment, a six-month EA ineligibility penalty will be imposed upon him. See N.J.A.C. 10:90-6.6(a). Further, Petitioner is advised that another fair hearing on this matter will not be permitted. Finally, Petitioner is reminded that participating in a mental health assessment does not in and of itself indicate that Petitioner has, or will be found to have, mental health issues.

Exceptions to the Initial Decision were filed by Petitioner on July 24, 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, 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 MODIFIED, as outlined above.

Officially approved final version.

AUG 19 2019

Natasha Johnson

Director

