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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 17690-24 D.B.

AGENCY DKT. NO. C079821006 (CUMBERLAND 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 penalty, contending that he violated the terms of his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for February 5, 2025; however, it was adjourned to allow Petitioner additional time to comply with his SP and apply for Managed Long Term Support Services Program. On February 26, 2025, the Honorable Kathleen M. Calemme, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 28, 2025, the ALJ issued an Initial Decision, affirming the Agency's termination of EA benefits to Petitioner, and reversing the Agency's imposition of a six-month EA ineligibility penalty.

Exceptions to the Initial Decision were received from Petitioner on March 17, 2025.

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 ADOPT the Initial Decision, and MODIFY the Agency's determination, based on the discussion below.

N.J.A.C. 10:90-6.3(g) states that, "[p]rior to EA termination, the agencies shall review, with the recipient, the reason(s) for the termination. If additional barriers are identified that may have prevented EA compliance, then the recipient is considered to have good cause and shall not be terminated and a penalty shall not be imposed. The recipient shall be required to follow through with services to address those barriers for continued EA eligibility. Such services shall be identified as mandatory activities in the [SP]."

In order to maintain eligibility for EA benefits, the recipient must take reasonable steps to resolve their emergent situation. See N.J.A.C. 10:90-6.6(a). Reasonable steps include, but are not limited to, the recipient participating in the creation of, and complying with, a written and signed service plan. Ibid. If a recipient fails to comply with the service plan, without good cause, then the recipient's EA benefits must be terminated, and a six-month period of ineligibility for EA benefits imposed. Ibid.

Here, the record reflects that Petitioner was approved for EA benefits on September 23, 2024, and on September 24, 2024, executed an SP, wherein he agreed, among other things, to conduct weekly housing searches and to provide proof of searches to the Agency, to complete a mental health assessment and provide results of same to his social worker no later than October 31, 2024, and to provide documentation from medical practitioners from no earlier than 6 months prior indicating his diagnoses, course of treatment, and current level of physical functioning. See Initial Decision at 2-3; see



also Exhibit R-1 at 8-14 and N.J.A.C. 10:90-6.6(a). Further, in the executed SP, Petitioner was required to meet with his assigned Agency social worker every other week. See Initial Decision at 3; see also Exhibit R-1 at 10. On September 27, 2024, the Agency social worker emailed Petitioner, reminding him of his responsibilities under his SP and suggesting he seek assistance from the shelter social worker. See Initial Decision at 4; see also Exhibit R-2 at 6.

Petitioner was referred by the Agency for a mental health evaluation, where he was assessed, diagnosed, and recommendations regarding his housing were made on October 11, 2024. See Initial Decision at 3; see also Exhibit R-3 at 1-45. A further psychiatric evaluation was held on October 18, 2024 and individual therapy was scheduled. See Initial Decision at 3; see also Exhibit R-3 at 46-63. On October 28, 2024, the Agency social worker contacted the mental health facility and was informed Petitioner had withdrawn from services. See Initial Decision at 4. Thereafter, the Agency issued a warning notice, indicating Petitioner's failure to comply with his SP, specifically his failure to complete housing searches, failure to participate in mental health therapy, failure to sign Health Insurance Portability and Accountability Act ("HIPAA") release forms necessary for application to residential healthcare facilities, and failure to meet with his social worker every two weeks that may result in the loss of EA benefits. *Ibid.*; see also Exhibit R-2 at 16-17. On November 6, 2024, the Agency social worker emailed Petitioner encouraging him to take action on his SP or be at risk of losing his EA benefits. See Initial Decision at 4; see also Exhibit R-2 at 19. Thereafter, on November 13, 2024, the Agency issued a termination notice to Petitioner, outlining his SP noncompliance. See Initial Decision at 4-5; see also Exhibit R-1 at 1-2.

At the time of the hearing, Petitioner testified that the Agency social worker prioritized his mental health assessment to his physical health conditions, among other complaints of the handling of his case by the Agency. See Initial Decision at 5. Petitioner contended that he showed the Agency social worker medical imaging and reports from 2017 and 2021 to evidence his physical condition and was angered that the Agency social worker did not prioritize a doctor's appointment, however, the ALJ found that Petitioner was able to schedule his own doctor's appointments and was under a physician's care. *Ibid.* The record further evidenced Petitioner's anger over transportation to and from medical appointments, and over the use of his own funds to provide himself transportation to and from appointments. *Id.* at 5-6; see also Exhibit R-2 at 11,14. Petitioner did attend a doctor's appointment on November 25, 2024, however, he admitted that he did not provide any documentation to the Agency regarding any diagnoses or treatment plan. See Initial Decision at 6. Petitioner provided no explanation for his refusal to engage in mental health treatment, failure to comply with housing searches, and failure to present current medical information. *Ibid.* The ALJ concluded that the Agency appropriately assisted Petitioner, however, that Petitioner's failure to cooperate would not result in a satisfactory resolution of his situation. *Ibid.* Based on the foregoing, the ALJ recognized that Petitioner's resistance to mental health therapy provided a barrier to his ability to comply with his service plan, however, the ALJ concluded that good cause existed to waive the six-month period of ineligibility for Petitioner, conditioned upon Petitioner becoming compliant with his mental health treatment. See Initial Decision at 8; see also N.J.A.C. 10:90-6.3(g). I agree and as such, based on Petitioner's particular mental health circumstances, I find that he may reapply for EA benefits, and the Agency shall assist him with such reapplication, as necessary. See Initial Decision at 8; see also N.J.A.C. 10:90-6.6(a). Further, Petitioner is advised that should he be found eligible for EA benefits, he is required to engage in mental health services/treatment(s), and to participate in the SAI/BHI program, and that such mandatory requirements shall be incorporated into his SP. See N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g), -6.6(a)(1)(iii)(7). Petitioner is further advised that failure to follow through with services to address those barriers may again result in a termination of EA benefits and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.6(a). The Agency's determination is modified to reflect the above findings.

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, the Agency's determination is MODIFIED, as outlined above.

Officially approved final version. April 17, 2025

Natasha Johnson
Assistant Commissioner

