



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
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

AMENDED DECISION

OAL DKT. NO. HPW 12117-23 P.H.

AGENCY DKT. NO. **S645947012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

On March 21, 2024, a Final Agency Decision ("FAD") was issued in this matter. This Amended FAD is being issued for clarification with respect to the imposition of the six-month period of ineligibility for Emergency Assistance benefits.

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 had violated motel rules, and the terms of his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 30, 2024, the Honorable Jeffrey N. Rabin, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On January 31, 2024, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

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

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient's actions, without good cause, which may include, but are not limited to, "[t]hreatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents." See N.J.A.C. 10:90-6.3(c), (3); see also DFD Instruction ("DFDI") No. 21-02-03. However, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility's policies, such as visitation or curfew. See N.J.A.C. 10:90-6.3(e); see also DFDI No. 08-05-04 at 10. An adult EA benefits recipient who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, the record reflects that Petitioner executed an EA service plan ("SP") wherein he agreed, among other things, to comply with motel rules, including not to engage in any threatening or disruptive behaviors. See Initial Decision at 2, 4-6; see also Exhibits R-2, R-6, and N.J.A.C. 10:90-6.6(a). The ALJ found, and the record provided substantiates, that Petitioner had violated motel rules by engaging in the theft of another motel guest's personal belongings, resulting in the police being called, Petitioner's arrest on theft charges, and his consequent termination from his motel placement. See Initial Decision at 2-3, 5-6; see also Exhibits R-7, R-8, R-9, and N.J.A.C. 10:90-6.3(c)(3). Although Petitioner disputed the claims that he had engaged in disruptive and threatening behavior, the ALJ found that Petitioner's testimony was



not credible, and moreover, found that after Petitioner's arrest, and with the help of a public defender, he admitted to knowingly, purposefully, and unlawfully taking the property of another. See Initial Decision at 5; see also Exhibit R-10. Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of his SP, and on that basis, affirmed the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty. See Initial Decision at 5-6; see also Exhibit R-5, and N.J.A.C. 10:90-6.6(a). While I agree with the ALJ's ultimate conclusion in this matter, in instances such as this, where violations of motel/shelter rules are at issue, it is the type of motel/shelter rule violation which is controlling, not Petitioner's SP. See Initial Decision at 5-6; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter.

By way of comment, because Petitioner has received continued assistance pending the outcome of this fair hearing, his six-month EA ineligibility penalty will begin to run as of the date of the original issuance of the Final Agency Decision in this case, March 21, 2024, through September 21, 2024.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is AFFIRMED, as outlined above.

Officially approved final version. March 27, 2024

Natasha Johnson
Assistant Commissioner

