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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 02671-18 K.J.

AGENCY DKT. NO. C111364003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she failed to comply with her EA service plan ("SP") by violating shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 26, 2018, the Honorable Susan L. Ogiati, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was reopened on April 11, 2018, for a teleconference, due to an error in the field hearing recording, resulting in the second half of the March 26, 2018, not being captured. The parties agreed that the content of that lost portion of the record was limited to reviewing the SP and Agency rules with Petitioner.

On May 2, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that the Agency terminated Petitioner's EA benefits for failure to comply with the terms of her SP, based on faxed and emailed communications from shelter placement personnel claiming serious violations of the shelter's rules, which resulted in Petitioner's termination from the shelter. See Initial Decision at 2-3; see also Exhibits R-1, R-2, R-4, and N.J.A.C. 10:90-6.6(a). However, no one from the shelter was present at the hearing to attest to the truth of those claims, and Petitioner disputed the more serious violations presented in the shelter communications, admitting only that she had a man in her room on one occasion when he was there to drop off her belongings. See Initial Decision at 4. The ALJ found the shelter communications were hearsay within the dictates of the Residuum Rule, and as such, concluded that the Agency failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner failed to comply with her SP and shelter rules. *Id.* at 4-5, see also N.J.A.C. 1:1-15.5. Moreover, the ALJ found that Petitioner's SP was executed after the Agency's termination of her EA benefits, and therefore, Petitioner did not have notice of the SP requirements or the shelter rules. See Initial Decision at 5-6; see also Exhibits R-1, R-4. Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits was improper and must be reversed. See Initial Decision at 6; see also Exhibit R-1, and N.J.A.C. 1:1-15.5. I agree.

No Exceptions to the Initial Decision were received.

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, Petitioner is advised that any future violation of her SP, or ejection from an Agency placement, may result in the termination of EA benefits and imposition of a six-month period of ineligibility for receipt of EA benefits. See N.J.A.C. 10:90-6.3(c), (e), -6.6(a).



Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

MAY 16 2018

Natasha Johnson

Director

