



State of New Jersey

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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 11520-18 T.M.

AGENCY DKT. NO. S614195012 (MIDDLESEX 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 the six-month EA benefits ineligibility penalty, contending that she failed to comply with her EA service plan ("SP") by violating motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 14, 2018, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On August 15, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that the Agency terminated Petitioner's EA benefits and imposed the six-month EA benefits ineligibility penalty, for purportedly failing to comply with the terms of her SP by being ejected from two motels. See Initial Decision at 2-3, 11; see also Exhibits R-4, R-11, and N.J.A.C. 10:90-6.3(e)(1), -6.6(a). The Agency based the termination of EA benefits on an unsigned, typed letter from motel personnel claiming that Petitioner kept her room messy and scared other guests; two Hotel Incident Reports by an Agency investigator; and a memo from a motel to the Agency stating that they refused a room to Petitioner because of her behavior. See Initial Decision at 8-9; see also Exhibits R-8, R-9, and R-10. However, no witnesses were present at the hearing to attest to the truth of those claims, and Petitioner disputed the violations presented in the motel communications, admitting only that she had moved between motels and shelters due to conditions of the motels, and because of Agency action. See Initial Decision at 2-3, 9; see also Exhibit R-4. Further, a videotape referenced by the Agency's witness was not provided. See Initial Decision at 9. The ALJ found Petitioner's testimony credible, and that the motel communications were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record, and as such, concluded that the Agency had failed to meet its burden of proof to show by a preponderance of the evidence that Petitioner failed to comply with her SP and motel rules. See Initial Decision at 9-12; see also Exhibit R-11, and N.J.A.C. 1:1-15.5. Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of the six-month EA benefits ineligibility penalty, were improper and must be reversed. See Initial Decision at 13; see also Exhibit R-11, and N.J.A.C. 10:90-6.6(a). 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 hereby advised that the Agency shall determine the appropriate form of EA placement. See N.J.A.C. 10:90-6.3(a)(1).



By way of further comment, Petitioner is also advised that any future violation of her SP, or ejection from an Agency placement, may result in the termination of EA benefits and the imposition of the 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.

**AUG 20 2018**

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Natasha Johnson

Director

