



State of New Jersey

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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

FINAL DECISION

OAL DKT. NO. HPW 14639-19 R.E.

AGENCY DKT. NO. S412344010 (HUNTERDON 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 he violated motel rules, resulting in the motel asking for his removal, thereby causing his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 29, 2019, the Honorable Mary Ann Bogan, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Also on October 29, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on October 30, 2019.

As the Director of the Division of Family Development, 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 REVERSE the Agency's determination, based on the discussion below.

Here, the record reflects that the Agency terminated Petitioner's EA benefits for purportedly violating motel health and safety policies. See Initial Decision at 2; see also Exhibit R-6, and N.J.A.C. 10:90-6.3(c)(3). The Agency based the termination of EA benefits on an email from a motel's staff member claiming, among other things, that Petitioner was often intoxicated, and that his behavior was disruptive and destructive, as well as on a newspaper article describing Petitioner's alleged behavior and the resultant police involvement. See Exhibits R-4, R-5. However, no witnesses were presented at the hearing to attest to the truth of those claims, nor copies of any police reports, despite police involvement. See Initial Decision at 3. Moreover, Petitioner disputed the violations presented in the motel communication and newspaper article. Ibid. The ALJ found that the motel communication and the newspaper article were unsubstantiated 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 that Petitioner had failed to comply with motel rules. Ibid.; see also Exhibits R-4, R-5, 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, was improper and must be reversed. See Initial Decision at 4; see also Exhibit R-6, and N.J.A.C. 10:90-6.3(c)(3). I agree. However, the ALJ ordered the Agency



to provide Petitioner with EA benefits for the motel where the alleged incidents occurred, and from which the motel had asked him to leave, but where he wished to remain. See Initial Decision at 2, 4. I respectfully disagree with the ALJ's order. Rather, in accordance with applicable regulatory authority, I find that it is the Agency who shall determine the form of EA benefits required to most appropriately address Petitioner's needs, and it may be unreasonable to allow him to continue to remain at the motel where the prior incidents occurred. See N.J.A.C. 10:90-6.3(a)(1). The Initial Decision is modified to reflect this finding.

By way of comment, Petitioner is advised that any future violations of motel rules may result in the termination of EA benefits and the imposition of a six-month period of ineligibility for EA benefits. See N.J.A.C. 10:90-6.3(c), (e).

By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

NOV 08 2019

Natasha Johnson
Assistant Commissioner

