



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
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

FINAL DECISION

OAL DKT. NO. HPW 08473-20 B.S.

AGENCY DKT. NO. C078116018 (SOMERSET COUNTY BOARD 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 violated shelter rules and thus, failed to comply with her EA service plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 6, 2020, the Honorable Sarah G. Crowley, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On October 7, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on October 16, 20, 22, and 27, 2020.

As Assistant Commissioner, 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 AFFIRM the Agency's determination, as discussed 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, "possession or use of drugs or alcohol on the premises," and/or "threatening 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), -6.3(c)(4).

EA recipients are required to develop and sign an EA service plan (hereinafter "SP") with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the requirements identified in the SP, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. Ibid.

Here, the record indicates that Petitioner executed an SP which required her to comply with motel/shelter rules, and moreover, establishes that she was provided with, and acknowledged receipt of, a copy of the shelter's rules. See Initial Decision at 2; see also Exhibit R 1 at 15-19. The ALJ found that Petitioner failed to comply with the terms of her SP, when on several occasions, she violated shelter rules by having alcohol on the premises and for being intoxicated on the premises. See Initial Decision at 2-3; see also Exhibit R-1 at 14, 20-33. Although Petitioner denied such shelter rule violations, the



ALJ found that the record substantiated said violations, and that Petitioner's denial of same was not credible. See Initial Decision at 3; see also Exhibit R-1 at 14, 20-33. Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of her SP, by violating shelter rules, affirmed the Agency's termination of Petitioner's EA benefits, and in accordance with regulatory authority, imposed upon Petitioner a six-month period of ineligibility for EA benefits. See Initial Decision at 3-4; see also Exhibit R-1 at 6-10, and N.J.A.C. 10:90-6.6(a). Of note, the Agency has offered to place Petitioner in a residential facility, but Petitioner has declined any such placement. See Initial Decision at 3.

I agree with the ALJ's conclusion that Petitioner failed to comply with her SP, and the ALJ's imposition of a six-month EA ineligibility penalty upon Petitioner. *Id.* at 3-4. However, in instances such as this, where a violation of motel/shelter rules are at issue, it is the type of violation which is controlling, not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this instance, the record indicates that Petitioner's possession of alcohol and intoxication on shelter premises violated motel rules, and on those bases, I find that Petitioner is ineligible for EA benefits for a period of six months in accordance with both N.J.A.C. 10:90-6.3(c)(3), -6.3(c)(4). See Initial Decision at 2-3; see also Exhibit R-1 at 14, 20-33. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the ALJ's imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 4; see also Exhibit R-1 at 6-10. The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this case.

By way of comment, as Petitioner has received continued assistance pending the outcome of this fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of issuance of this Final Decision. However, as it appears from the record that the Agency is willing to continue working with Petitioner to secure appropriate housing, the Agency is authorized to lift the six month EA ineligibility penalty, and may assist Petitioner with securing such housing. See Initial Decision at 2.

By way of further comment, the transmittal in this matter indicates that Petitioner also appealed a termination of Work First New Jersey/General Assistance ("WFNJ/GA") benefits, which was not addressed by the ALJ in the Initial Decision. Therefore, if Petitioner still has an issue concerning a termination of WFNJ/GA benefits, she may request another fair hearing on that issue alone.

Also, 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. Moreover, I note that the toxicology testing results submitted by Petitioner were not contemporaneous with the incidents at issue in the matter, and are therefore irrelevant with respect to the use of alcohol, which furthermore, is not an "illicit" substance.

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

Officially approved final version.

OCT 29 2020

Natasha Johnson
Assistant Commissioner

