



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 17412-19 L.O.

AGENCY DKT. NO. **S617376012 (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, contending that he failed to comply with his EA service plan by violating motel rules, which resulted in his removal from said motel placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 14, 2020, the parties appeared for a hearing, but at the prehearing conference, at the request of the parties, the hearing was adjourned for two weeks to allow the parties to obtain additional evidence. On February 14, 2020, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open to allow the Agency to submit certain video documentation. Said documentation was submitted on February 25, 2020, and the record then closed.

On February 26, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that, by notice dated November 26, 2019, the Agency terminated Petitioner's EA benefits, effective December 18, 2019, and imposed a six-month EA ineligibility penalty, contending that Petitioner had failed to comply with the terms of his EA Service Plan ("SP"), by violating motel rules. See Initial Decision at 4-5; see also Exhibits R-2, R-8, and N.J.A.C. 10:90-6.3(c), -6.6(a). Said termination was based on a letter sent from the motel manager to the Agency, advising that certain motel rules had allegedly been violated by Petitioner, and requesting that Petitioner be removed from the motel; a "Hotel Incident Form" submitted to the Agency by its Investigator; and the Investigator's testimony. See Initial Decision at 2, 4; see also Exhibits R-5, R-6. However, no one from the motel, nor anyone from the Agency with direct knowledge of the incident, was present at the hearing to attest to the truth of those claims. See Initial Decision at 2, 5. Petitioner disputed the violations presented in the aforementioned communications. *Id.* at 5; see also Exhibit R-7. The ALJ found that the motel communication and the Investigators' testimony were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record. See Initial Decision at 2-5; see also N.J.A.C. 1:1-15.5. As such, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner had failed to comply with his SP and motel rules. *Ibid.* Further, after Petitioner had been removed from that first motel placement, and the Agency had noticed Petitioner



of the termination of his EA benefits, the Agency had placed Petitioner in another motel pending the outcome of this fair hearing. See Initial Decision at 5. The record reflects that Petitioner was also removed from that second motel placement based on allegations of motel rule violations. Id. at 5-6; see also Exhibits R-10, R-11, R-13. However, the ALJ also found that the Agency had also not provided competent evidence to establish that Petitioner had violated the motel rules of that second motel placement. See Initial Decision at 2-3, 5-6; see also 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 a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 8-9; see also Exhibit R-8. I agree.

Exceptions to the Initial Decision were filed by the Agency on March 4, 2020.

As Assistant Commissioner, 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, for purposes of regulatory clarification, the Agency is reminded that, in instances such as this, where a violation of shelter/motel rules is at issue, it is the type of violation which is controlling, and not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e).

By way of further comment, Petitioner is advised that any future shelter rule violations, without good cause, may result in a termination of EA benefits, and a six month period of ineligibility for EA benefits. See N.J.A.C. 10:90-6.3(c), (e).

Also by way of 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 ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version. SEP - 8 2020

Natasha Johnson
Assistant Commissioner

