



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 05357-20 P.J.

AGENCY DKT. NO. S616304012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals 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 a six-month EA ineligibility penalty, contending that Petitioner violated shelter rules and thus, failed to comply with her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for June, 1, 2020, but Petitioner failed to appear and the hearing was rescheduled. On June 16, 2020, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On June 18, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development ("DFD"), 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, "destruction of shelter property or the property of others," 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)(2), -6.3(c)(3).

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

Here, Petitioner's SP required Petitioner to comply with motel/shelter rules. See Initial Decision at 2; see also Exhibits R-B, R.G. The ALJ found that Petitioner had failed to comply with the terms of her SP, when Petitioner violated motel rules by threatening another motel guest, and by destroying motel property. See Initial Decision at 5. The record substantiates, and Petitioner admitted to such



threatening and destructive behaviors. Id. at 3-4; see also Exhibits R-J, R-K, R-L, R-O, R-P, R-Q, and R-R. Although Petitioner claimed that her threatening and destructive behaviors were due to mental health issues, the ALJ found that Petitioner had failed to provide evidence to support her claim. See Initial Decision at 4; see also Exhibits R-M, R-N. Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of her SP, without good cause, and affirmed the Agency's termination of Petitioner's EA benefits and imposition of a six-month EA ineligibility penalty. See Initial Decision at 4-5; see also Exhibit R-S, and N.J.A.C. 10:90-6.6(a). I agree with the ALJ's conclusion that Petitioner failed to comply with her SP. See Initial Decision at 5. 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 threatening and destructive behaviors 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) (2), -6.3(c)(3). See Initial Decision at 3-4; see also Exhibits R-J, R-K, R-L, R-O, R-P, R-Q, and R-R. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Exhibit R-S. 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.

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

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Officially approved final version.

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Natasha Johnson  
Assistant Commissioner

