



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

PO BOX 716
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 13604-19 R.N.

AGENCY DKT. NO. C095683003 (BURLINGTON 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 a six-month EA ineligibility penalty, contending that he failed to comply with his EA service plan ("SP") by failing to comply with shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for October 28, 2019, but Petitioner failed to appear. Thereafter, good cause was found for such failure to appear, and the hearing was rescheduled for December 8, 2019. On that date, Petitioner appeared at the hearing but requested an adjournment in order to secure legal counsel. On December 18, 2019, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open for Petitioner to submit additional documentation and then closed on December 30, 2019. On January 13, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on January 16, 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 REVERSE the Agency's determination, based on the discussion below.

EA benefits 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 SP, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. *Ibid.*

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, threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents, or a violation of the shelter's health and safety policies. See N.J.A.C. 10:90-6.3(c)(3) and -6.3(c)(5). However, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility's policies, such as visitation or curfew. See DFD Instruction 08-5-4 at 10. An adult EA benefits recipient



who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, the record reflects that Petitioner was terminated from three shelter placements due to unauthorized visitors. See Initial Decision at 2-3; see also R-1 at Exhibits 5, 6, 7. As a result, the Agency terminated Petitioner's EA benefits and imposed a six-month EA ineligibility penalty. See Initial Decision at 3; see also R-1 at Exhibit 4. The ALJ found that, although Petitioner had violated shelter rules on several occasions by having unauthorized visitors, he had good cause for such shelter rule violations because said visitors were his caregivers, regardless of the fact that Petitioner had never advised the Agency that he required such caregivers to be present where he resided. See Initial Decision at 3-5; see also Exhibits P-1, P-4. Accordingly, 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 5; see also R-1 at Exhibit 4, and N.J.A.C. 10:90-6.3(e), -6.6(a). I agree.

However, in order to continue having caregivers visit and/or reside at his housing/shelter placement, Petitioner is advised that he must provide the Agency with legible documentation indicating the names and caregiving schedules of said caregivers. Failure to do so may result in the termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.3(e)(1). The Initial Decision is modified to reflect this finding.

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 MODIFIED, and the Agency's determination is REVERSED, as outlined above.

Officially approved final version.

Natasha Johnson
Assistant Commissioner

FEB 24 2020

