



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 08015-20 T.M.

AGENCY DKT. NO. S620560012 (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, and imposed a six-month EA ineligibility penalty, contending that she was terminated from her shelter placement due to shelter rule violations. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for September 2, 2020, but was adjourned with the consent of both parties, so that Petitioner could retain counsel. The rescheduled September 9, 2020, hearing was also adjourned, as Petitioner had not yet retained counsel. On September 19, 2020, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Of note, Petitioner had not retained counsel. On September 24, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination. See Initial Decision at 1 fn. 1.

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 ADOPT 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," "threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents," or "violation of health and safety policies." See N.J.A.C. 10:90-6.3(c)(2), (3), (5); see also DFD Instruction ("DFDI") No. 20-07-03.

Here, Petitioner had executed EA service plans ("SP"), wherein she was required to comply with motel/shelter rules. See Initial Decision at 3; see also Exhibits R 2, R 4, and R 7. The ALJ found, and the record substantiates, that Petitioner had violated the rules of her motel placement by engaging in an altercation with another motel guest, and by destroying motel property, resulting in her termination from said motel placement. See Initial Decision at 3-6; see also Exhibits R-10, R-11. The ALJ also



found that Petitioner had not provided any credible evidence to rebut the preponderance of evidence introduced against her. See Initial Decision at 5-6. Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of her SPs, without good cause, by violating motel rules, and on that basis, affirmed the Agency's termination of Petitioner's EA benefits and imposition of a six-month EA ineligibility penalty. Id. at 7-8; see also Exhibit R-13, and N.J.A.C. 10:90-6.6(a). While I agree with the ALJ's ultimate conclusion, in instances such as this, where a violation of motel/shelter rules are at issue, it is the type of violation which is controlling. See Initial Decision at 7-8; see also N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this instance, the record indicates that Petitioner's disruptive and destructive behaviors, resulted in her termination from her motel placement, and on those bases, I find that Petitioner is ineligible for EA benefits for a period of six months in accordance with N.J.A.C. 10:90-6.3(c)(2), (3). See Initial Decision at 3-6; see also Exhibits R-10, R-11. 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 13; see also DFDI No. 20-07-03. 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 been receiving continued assistance pending the outcome of this fair hearing, Petitioner's six-month EA ineligibility penalty shall begin to run from the date of issuance of this Final Agency Decision.

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

OCT - 1 2020

Officially approved final version.

---

Natasha Johnson  
Assistant Commissioner

