



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 05030-21 D.M.

AGENCY DKT. NO. C564009002 (BERGEN 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 violated motel/shelter rules by having unauthorized visitors stay in his room. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 16, 2021, the Honorable Danielle Pasquale, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 16, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Legal Services, on behalf of Petitioner, on June 17, 2021.

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 REVERSE the Agency's determination, based on the discussion 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, "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, including, but not limited to smoking in undesignated areas, burning candles or incense in the room, and the use of hotplates or other cooking devices in the room." See N.J.A.C. 10:90-6.3(c)(3), (5).

Also, 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 N.J.A.C. 10:90-6.3(e); see also DFD Instruction ("DFDI") 08-05-04 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, I agree with the ALJ's ultimate conclusion that Petitioner violated motel/shelter rules by having unauthorized visitors in his motel room, which thereby caused his termination from the motel



placement. See Initial Decision at 7-8; see also Exhibits R-5, R-8. However, in instances such as this, where a violation of motel/shelter rules is at issue, it is the type of violation which is controlling, not the fact that Petitioner caused his own homelessness. Ibid.; see also N.J.A.C. 10:90-6.1(c)(3), and N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this instance, Petitioner's act of allowing unauthorized visitors to stay in his room was a minor violation of motel rules, and there is nothing in the record to indicate that Petitioner had been terminated from another motel/shelter for the same, or another, violation. See Initial Decision at 1-5; see Exhibit R-8, and N.J.A.C. 10:90-6.3(e), (f). Additionally, there is nothing in the record to indicate that the condition/cleanliness of Petitioner's room rose to the level of a "health and safety violation," and moreover, the Agency's termination of Petitioner's EA benefits, as set forth in its adverse action notice, was not based on any such motel/shelter violation. See Initial Decision at 3-5; see also Exhibits R-2, R-8. Therefore, in accordance with applicable regulatory authority, I find 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 Exhibit R-2; see also N.J.A.C. 10:90-6.3(e), (f), and DFDI 21-02-03. The Initial Decision is modified to reflect these findings, and to clarify the applicable regulatory authority in this case.

By way of comment, Petitioner is advised that if he violates motel/shelter rules in the future, his EA benefits may be terminated and a six-month EA ineligibility penalty imposed.

By way of further comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency ("DCPP"), a copy of the Initial and Final Decisions shall be forwarded to DCPP. See Initial Decision at 3-4.

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

Officially approved final version. JUL - 1 2021

Natasha Johnson
Assistant Commissioner

