



State of New Jersey

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*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
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*Lt. Governor*

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 03610-21 K.A.

AGENCY DKT. NO. S496313012 (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 he violated motel rules, and refused alternate motel placement when offered. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A telephonic hearing was initially scheduled for May 25, 2021, but was adjourned to June 4, 2021, to allow Petitioner the opportunity to obtain counsel. On June 4, 2021, the hearing was again adjourned, as the witness for the Agency had fallen ill. On June 15, 2021, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On July 6, 2021, 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, 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." See N.J.A.C. 10:90-6.3(c)(3); see also DFD Instruction ("DFDI") No. 21-02-03. 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 N.J.A.C. 10:90-6.3(e); see also DFDI No. 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, the record indicates that Petitioner had executed an EA service plan ("SP"), wherein he agreed to comply with shelter/motel rules. See Initial Decision at 3-4; see also Exhibit R-16 at 5. The



ALJ found, and the record substantiates, that Petitioner had violated the rules of his second motel placement by fighting with, and harassing, other motel guests, resulting in his termination from the motel placement. See Initial Decision at 3-5, 8; see also Exhibits R-20 through R-23. The record also indicates that Petitioner would specifically harass women by going into their rooms uninvited. See Initial Decision at 3; see also Exhibit R-20. Further, the record indicates that one altercation with a motel guest resulted in police involvement. See Initial Decision at 3, 5; see also Exhibit R-22. Based on the testimony and documentary evidence provided, the ALJ concluded that Petitioner had violated the terms of his SP by violating motel rules, without good cause, and on that basis, affirmed the Agency's termination of Petitioner's EA benefits and imposition of a six-month EA ineligibility penalty. See Initial Decision at 6-9; see also Exhibit R-24, and N.J.A.C. 10:90-6.3(e), -6.6(a).

While I agree with the ALJ's ultimate conclusion, in instances such as this, where violations of motel/shelter rules are at issue, it is the type of violation which is controlling. See Initial Decision at 5-6; 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 threatening and/or disruptive behaviors, resulted in his termination from his second motel placement, and on that basis, 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)(3). See Initial Decision at 4-5. 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. *Id.* at 5-6; see also DFDI No. 21-02-03. The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter.

Further, the ALJ found that after Petitioner had been terminated from his second motel placement, he had refused the Agency's offer to place him at another motel, without good cause, and on that basis, also concluded that the Agency's termination of Petitioner's EA benefits was also proper and must stand. See Initial Decision at 3, 5, 8-9; see also Exhibit R-24, and N.J.A.C. 10:90-6.3(a)(1). I also agree.

By way of comment, because Petitioner has been receiving continued assistance pending the outcome of the fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of the issuance of this Final Agency Decision.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

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

Officially approved final version.

AUG 17 2021

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Natasha Johnson  
Assistant Commissioner

