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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 05597-21 L.T.

AGENCY DKT. NO. C116593008 (GLOUCESTER COUNTY DIV. 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 violated motel/shelter rules, failed to comply with her EA service plan ("SP") by violating motel/shelter rules, and caused her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 12, 2021, the Honorable Tama B. Hughes, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On July 13, 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, 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 MODIFY 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, "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).

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). 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 she agreed to comply with motel/shelter rules. See Initial Decision at 3-4., 5-6; see also Exhibit R-1 at 4-9, 19-21. The ALJ found, and the record substantiates, that Petitioner had violated the rules of her shelter placement by assaulting another shelter resident, and verbally abusing shelter staff members, resulting in police



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involvement, a temporary, and then final, restraining order being placed against her, thereafter resulting in her termination from her shelter placement. See Initial Decision at 2-3, 6-7; see also Exhibit R-1 at 16-18, 22-35, 36-41. The ALJ also found that Agency testimony, as well as witness testimony, presented at a prior abandoned fair hearing on the same issue, proffered credible testimony and evidence proving that Petitioner had violated shelter rules. See Initial Decision at 2-4, 6; see also Exhibit R-2, and N.J.A.C. 1:1-15.5. Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of her SP, without good cause, by violating shelter rules, thereby causing her own homelessness, 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 6-7; see also Exhibit R-1 at 1-3, 61-63, and N.J.A.C. 10:90-6.1(c)(3)(vi), -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 5-7; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). In this instance, the record indicates that Petitioner's threatening and disruptive behaviors resulted in her termination from her shelter placement, in violation of N.J.A.C. 10:90-6.3(c)(3), 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). See Initial Decision at 4-6; see also Exhibit R-1 at 3-9, 16-18, 22-35, 36-41, and 61-63. 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 Initial Decision at 2-3, 6-7; see also Exhibit R-1 at 1-3. The Initial Decision and the Agency's adverse action notice are both modified to reflect this finding with respect to the applicable legal basis in this case.

By way of comment, Petitioner's six-month EA ineligibility penalty shall run from April 12, 2021, the effective date of the Agency's termination of EA benefits, through October 11, 2021. See Exhibit R-1 at 1-3.

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 MODIFIED, as outlined above.

Officially approved final version.

Natasha Johnson
Assistant Commissioner

JUL 27 2021

