



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 02828-21 S.D.

AGENCY DKT. NO. S619859012 (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 violated motel rules, which resulted in her removal from said motel placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 29, 2021, the Honorable Kathleen M. Calemmo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On March 30, 2021, the ALJ issued an Initial Decision, affirming the Agency's termination of Petitioner's EA benefits, and reversing the Agency's imposition of a six-month EA ineligibility penalty. Here, on the bases of "Hotel Incident Report Forms," and photographs, submitted by the Agency's Inspector, and a letter from hotel management, the Agency terminated Petitioner's EA benefits, contending that she had violated hotel rules by having an unauthorized male residing in her room, and for cooking in her room on a hotplate. See Initial Decision at 2-3; see also Exhibits R-7, R-8, R-10, R-11, R-12, and N.J.A.C. 10:90-6.3(c)(5), (e)(1)(iii). Petitioner disputed the hotel violation allegations. See Initial Decision at 3. Concerning the hotel violation regarding an unauthorized male residing in Petitioner's room, the ALJ found that no one from the hotel, nor anyone from the Agency with direct knowledge of the incident, was present at the hearing to attest to the truth of that claim. Id. at 4-5. Further, the ALJ found that the hotel communication, and the Investigators' communications, were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record. Id. at 5-6; see also N.J.A.C. 1:1-15.5. As such, the ALJ concluded that the Agency had failed to meet its burden of proof to show by a preponderance of the evidence that Petitioner had violate hotel rules by having an unauthorized male residing in her hotel room. See Initial Decision at 5-6. Concerning the hotel violation regarding Petitioner cooking in her hotel room, the ALJ found that the Inspector's "Hotel Incident Reports," although hearsay within the dictates of the Residuum Rule, were nonetheless supported by corroborating, credible photographic evidence submitted into the record. Id. at 5; see also Exhibit R-12. Accordingly, the ALJ found that the Agency had proven, by a preponderance of the evidence, that Petitioner had violated hotel safety policies by cooking in her hotel room. See Initial Decision at 5. Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's



EA benefits, on the basis that she had violated hotel rules by using a hotplate in her hotel room, was proper and must stand. Id. at 6; see also Exhibit R-14. I agree.

Additionally, the ALJ concluded, and the Agency concurred, that Petitioner's mental health issues, her two young children, and Division of Child Protection and Permanency's ("DCP&P") involvement, may have prevented her from complying with EA benefits requirement, and therefore, no six-month EA ineligibility penalty shall be imposed. See Initial Decision at 6; see also N.J.A.C. 10:90-6.3(i)(1). Further, the ALJ concluded, and the Agency concurred, that Petitioner may reapply for EA benefits, and that EA benefits eligibility shall be premised upon coordination with DCP&P and Petitioner's compliance with the Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI"). See Initial Decision at 3, 5. I also agree.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, Petitioner is advised that any future hotel/motel/shelter rule violation, without good cause, may result in a termination of his EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(c), (e).

By way of further comment, because the record indicates that Petitioner has an open case with the DCP&P, a copy of the Initial and Final Agency Decisions shall be forwarded to DCP&P. See Initial Decision at 3.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is AFFIRMED in part, and REVERSED in part, as outlined above.

APR - 6 2021

Officially approved final version.

Natasha Johnson
Assistant Commissioner

