



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

SARAH ADELMAN  
*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 **05113-23 D.N.**

AGENCY DKT. NO. **S621736012 (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. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for an emergent hearing. On June 21, 2023, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record closed that day. On June 22, 2023, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision, were filed by the Agency on June 23, 2023. Objections to the Agency's Exceptions, were filed by Petitioner on June 26, 2023.

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." 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 reflects that, by notice dated April 11, 2023, the Agency terminated Petitioner's EA benefits, effective May 12, 2023, and imposed a six-month EA ineligibility penalty, contending that Petitioner had violated motel rules by allowing unauthorized guests to stay overnight in the room, and for cooking in the room. See Initial Decision at 3; see also Exhibit R-8, and N.J.A.C. 10:90-6.1(c)(3)(v) (i). Said termination of Petitioner's EA benefits was based on an investigation, conducted by an Agency



investigator, advising that Petitioner had an unauthorized male staying with her in the room, and that the male had threatened the desk clerk. See Initial Decision at 3; see also Exhibit R-6. While visiting Petitioner, the Agency investigator testified that he discovered a blender, a broken air fryer, and other non-electric pots. See Initial Decision at 4; see also Exhibit R-6. The ALJ found that the investigator assumed that the presence of the cooking devices meant that Petitioner had used them, and that the investigator provided no proof that Petitioner had used the cooking devices. Id. at 6-7. The ALJ further found that Petitioner's explanation, that she did not use the air fryer because it was inoperable, and that she had no other storage options after being evicted from her apartment, was plausible. Id. at 7. Finally, while Petitioner did not dispute that her child's father and another male were present at the motel, the Agency failed to prove that either the child's father, or the other male, had stayed overnight in Petitioner's room. Id. at 7-8.

Based on the foregoing, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the credible evidence, that Petitioner had violated her EA Service Plan ("SP") by violating motel rules. Id. at 8; see also N.J.A.C. 10:90-6.6(a). Accordingly, the ALJ further concluded 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 Initial Decision at 8; see also Exhibit R-8.

While I agree with the ALJ's final conclusion in this matter, it should be noted that in instances such as this, where a violation of shelter rules are at issue, it is the type of violation which is controlling, and not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter. See Initial Decision at 6, 8.

By way of comment, I have reviewed the Agency's Exceptions, and Petitioner's Objections thereto, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version. June 29, 2023

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Natasha Johnson  
Assistant Commissioner

