



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
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 11480-23 M.D.

AGENCY DKT. NO. C137692013 (MONMOUTH COUNTY DIV. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits, contending that she violated motel placement rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On October 31, 2023, the Honorable Carl V. Buck, III, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On November 1, 2023, the ALJ issued an Initial Decision, reversing 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 ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

The rules of evidence are relaxed and hearsay is admissible in the OAL, but "some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness." See N.J.A.C. 1:1-15.5(b).

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 the Agency terminated Petitioner's EA benefits on the basis that she had allowed an authorized guest, her son, to stay in her motel room, resulting in her termination from the motel placement. See Initial Decision at 2-3; see also Exhibit R-1 at 6, 8, 17-18, and N.J.A.C.



10:90-6.3(e)(iii). However, the record reflects that no one from the motel placement, nor anyone from the Agency, with direct knowledge of the alleged incident, were present at the hearing to attest to the truth of the matter, and no corroborating documentary evidence was provided. See Initial Decision at 3-4, 6; see also N.J.A.C. 1:1-15.5. Moreover, the ALJ found that the Agency had failed to clearly state in its termination notice of September 25, 2023, the motel rule that Petitioner had allegedly violated. See Initial Decision at 6; see also Exhibit R-1 at 3, and N.J.A.C. 10:90-9.1(a)(1)(ii). Further, the ALJ found Petitioner's testimony, disputing said motel incident, to be credible. See Initial Decision at 4-5; see also Exhibit R-1 at 6. 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 motel rules. See Initial Decision at 6. Accordingly, the ALJ further concluded that the Agency's termination of Petitioner's EA benefits was improper and must be reversed. Ibid. I agree.

By way of comment, it should be noted that in instances such as this, where a violation of shelter rules is at issue, it is the type of violation set forth at N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e) which is controlling here, and not the regulatory authority set forth at N.J.A.C. 10:90-6.6(a), regarding EA service plan violations. See Initial Decision at 1-3, 6. Accordingly, in accordance with N.J.A.C. 10:90-6.3(e) (1)(iii), even had the Agency's termination of Petitioner's EA benefits been substantiated, this would have been Petitioner's first alleged shelter/motel termination for such motel rule violation, specifically, visitation, and as such, not yet subject to EA benefits termination. See Initial Decision at 2-4; see also Exhibit R-1 at 2-4.

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

Officially approved final version. November 14, 2023

Natasha Johnson
Assistant Commissioner

