



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 11002-23 S.O.

AGENCY DKT. NO. C287528009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits, contending that she was terminated from her shelter placement due to a physical fight with other shelter residents, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On October 23, 2023, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), held a plenary hearing, and took testimony. No documents were admitted into evidence. On that same date, 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 MODIFY 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 allegedly engaged in a physical fight with other shelter residents, resulting in her termination from the



shelter placement, and thereby causing her own homelessness. See Initial Decision at 2-3. However, the record reflects that no one from the shelter 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. Id. at 4; see also N.J.A.C. 1:1-15.5. Moreover, the record reflects that Petitioner, as well as the three other residents involved in the alleged incident, were terminated from the shelter because it could not be determined how the fight had begun. Id. at 3-4. The ALJ found Petitioner's testimony, regarding said shelter incident, to be credible, concluding that Petitioner was the victim of assault, and did not instigate the incident or fight anyone. Id. at 2-4. 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 caused her own homelessness. Id. at 4; see also N.J.A.C. 10:90-6.1(c)(3). Accordingly, the ALJ further concluded that the Agency's termination of Petitioner's EA benefits was improper and must be reversed. Ibid.

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 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. 10:90-6.1(c)(3), as relied upon by the ALJ. See Initial Decision at 3-4. The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter.

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

Officially approved final version.      October 26, 2023

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Natasha Johnson  
Assistant Commissioner

