



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 **09780-23 T.A.**

AGENCY DKT. NO. **C177745011 (MERCER COUNTY BOARD 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 failed to comply with her EA service plan ("SP") by failing to comply with motel rules, resulting in her termination from said shelter placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 29, 2023, the Honorable Nicole T. Minutoli, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On October 2, 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 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, violation of the shelter's health and safety policies. See N.J.A.C. 10:90-6.3(c)(5). 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)(1)(iii); see also DFD Instruction 08-5-4 at 10. An adult EA 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, Petitioner's SPs required her to comply with shelter rules. See Initial Decision at 2; see also Exhibits R-1, R-2 at 1-3, R-4, and N.J.A.C. 10:90-6.6(a). The ALJ found that the Agency had failed to prove by a preponderance of the evidence that Petitioner had violated her SPs by smoking in her motel room in violation of motel rules. See Initial Decision at 2-4, 6-7; see also Exhibits R-1, R-2. Further the ALJ found that, although Petitioner had allowed unauthorized visitors in her motel room, such violation



was minor, and did not rise to the level of a violation of her SPs. See Initial Decision at 2-7; see also Exhibits R-1, R-2, R-4, R-5. Moreover, the ALJ found that Petitioner had allowed unauthorized visitors in her motel room as such visitors were needed to babysit her children when needed, and as such, found good cause for such motel violation. See Initial Decision at 5-7; see also N.J.A.C. 10:90-6.6(a). Based on the foregoing, the ALJ concluded that Petitioner had not violated the terms of her SPs, and as such, 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 6-7; see also Exhibit R-6, and N.J.A.C. 10:90-6.6(a).

While I agree with the ALJ's ultimate conclusion to reverse the Agency's determination, it should be noted that in instances such as this, where a violation of motel rules is at issue, it is the type of violation which is controlling, and not a violation of an SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). Should Petitioner have been found not to have had good cause for permitting unauthorized visitors in her room, said infraction would have been considered a first minor violation, with no termination of EA to be imposed. See N.J.A.C. 10:90-6.3(e)(1)(iii). The Initial Decision and the Agency's determination are modified to clarify the applicable regulatory authority in this case.

By way of comment, should Petitioner be need in of child care, she should speak with her case worker about available child care services while a WFNJ benefits recipient.

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

Officially approved final version. October 12, 2023

Natasha Johnson
Assistant Commissioner

