



## State of New Jersey

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TRENTON, NJ 08625-0716

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*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 **05961-23 T.A.**

AGENCY DKT. NO. **C098608015 (OCEAN 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 had violated motel rules, resulting in her termination from her shelter placements, and violated the terms of her EA service plan ("SP"), thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 12, 2023, the Honorable Robert D. Herman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On July 13, 2023, the ALJ issued an Initial Decision, affirming 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 AFFIRM 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, "[t]hreatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents" and/or "[v]iolation of health and safety policies." See N.J.A.C. 10:90-6.3(c), (3), (5); 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 Petitioner executed an EA SP and a Temporary Shelter Agreement, wherein she agreed to comply with shelter rules. See Initial Decision at 3-4; see also Exhibits R-2, R-3, and N.J.A.C. 10:90-6.6(a). The ALJ found, and the record substantiates, that Petitioner had violated



shelter rules at two motel placements by engaging in continued disruptive and threatening behavior, and by engaging in certain behaviors in violation of the health and safety policies. See Initial Decision at 2, 5; see also Exhibits R-4, R-5, R-6, R-7, and N.J.A.C. 10:90-6.3(c)(3), (5). Although Petitioner disputed said violations, the ALJ found that Petitioner had failed to substantiate such dispute, or establish good cause for failing to comply with such shelter rules. See Initial Decision at 3, 6. It appears from the record that no barriers were found which may have prevented Petitioner from complying with the motels' rules, and Petitioner had not provided any documentation indicating that any barriers existed. Id. at 2-3; see also N.J.A.C. 10:90-6.3(g). The ALJ also found that Petitioner had refused out-of-county placement offered by the Agency. See Initial Decision at 3, 5; and N.J.A.C. 10:90-6.2(c)(3).

Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of her SP, by violating shelter rules, and on that basis, affirmed the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty. See Initial Decision at 5-6; see also Exhibit R-1, and N.J.A.C. 10:90-6.6(a). While I agree with the ALJ's ultimate conclusion in this matter, in instances such as this, where violations of shelter rules are at issue, it is the type of shelter rule violation which is controlling, not Petitioner's SP, nor the regulations set forth at N.J.A.C. 10:90-6.1(c)(3). See Initial Decision at 6; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter.

By way of comment, because Petitioner has received continued assistance pending the outcome of this fair hearing, her six-month EA penalty will begin to run as of the date of the issuance of this Final Agency Decision.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with her current needs, including Social Services for the Homeless.

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

Officially approved final version. July 24, 2023

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Natasha Johnson  
Assistant Commissioner

