



State of New Jersey

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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 **05592-23 T.H.**

AGENCY DKT. NO. **C162833002 (BERGEN 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 failed to comply with shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. An initial emergent hearing was scheduled for June 26, 2023, but with the consent of the parties the hearing was rescheduled for a non-emergent hearing on August 9, 2023. On that date, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open for post hearing submissions by the parties and then closed on August 28, 2023, upon receipt of same. On October 13, 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, 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.

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 DFDI 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).

N.J.A.C. 10:90-6.3(g) states that, "[p]rior to EA termination, the agencies shall review, with the recipient, the reason(s) for the termination. If additional barriers are identified that may have prevented EA compliance, then the recipient is considered to have good cause and shall not be terminated and a



penalty shall not be imposed. The recipient shall be required to follow through with services to address those barriers for continued EA eligibility. Such services shall be identified as mandatory activities in the EA service plan [SP].”

Here, the ALJ found that Petitioner had violated the rules of her shelter placement when she failed to comply with its curfew rules on several occasions, and when she left her three minor children unattended, and as such, determined that her termination from said shelter placement was proper. See Initial Decision at 2-4; see also Exhibit R-2 at 9-15, 19-27, and N.J.A.C. 10:90-6.3(c)(5), (e)(1) (i). Nevertheless, the ALJ found that Petitioner’s failure to comply with shelter rules stemmed from her mental health issues, that the Agency had notice of her mental health issues, and that the Agency had failed to prove that it had considered Petitioner’s mental health barriers prior to its termination of her EA benefits, as required by regulatory authority. See Initial Decision at 3-7; see also Exhibits P-1 at Exhibits A, B, C, I, and R-1 at Exhibit 2, R-2 at 28, and N.J.A.C. 10:90-6.3(g). The ALJ also found that the Agency had failed to review the shelter rules with Petitioner, and advise her that any violation of such rules could result in termination of her EA benefits and the imposition of a six-month EA ineligibility penalty, nor did the Agency consider the existence of good cause for such shelter rule violations, as required by regulation. See Initial Decision at 7-9; see also N.J.A.C. 10:90-6.3(c). Based on the foregoing, the ALJ 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 9; see also Exhibit R-2 at 3. I agree.

By way of comment, based upon the record, I direct the Agency to refer Petitioner for Substance Abuse Initiative/Behavioral Health Initiative (“SAI/BHI”) evaluations, if it has not already done so. See Initial Decision at 3-7; see also Exhibits R-1 at Exhibit 2 and R-2 at 28; see also N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g). Should the assessments require Petitioner to engage in treatment(s), that requirement shall be incorporated into her EA service plan (“SP”). See N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g), -6.6(a)(1)(iii) (7). Petitioner is advised that she “shall be required to follow through with services to address those barriers for continued EA eligibility.” See N.J.A.C. 10:90-6.3(g). Further, Petitioner is advised that any future violation of motel/shelter rules, or violation of her SP, may result in the termination of EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.3(c), (e), -6.6(a).

By way of further comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency (“DCP&P”), the Agency is directed to forward a copy of the Initial and Final Decisions in this matter to DCP&P.

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

Officially approved final version. December 05, 2023

Natasha Johnson
Assistant Commissioner

