



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 **04574-23 T.R.**

AGENCY DKT. NO. **S583686012 (MIDDLESEX 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 had violated motel rules, resulting in her termination from her motel placement, and violated the terms of her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 22, 2023, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On July 6, 2023, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by an Agency, not a party to this matter, on July 14, 2023. The Agency submitted a reply to this filed Exception on July 14, 2023.

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 several EA SPs and a shelter rule SP addendum, wherein she agreed to comply with shelter rules. See Initial Decision at 2, 4, 6; see also Exhibits R-1, R-2, R-3, R-4A, R-7, and N.J.A.C. 10:90-6.6(a). The ALJ found, and the record substantiates, that



Petitioner had violated motel rules 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 3-5; see also Exhibits R-4, R-5, R-6, 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 assertions, or establish good cause for failing to comply with said motel rules. See Initial Decision at 5. 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. See N.J.A.C. 10:90-6.3(g).

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-8, 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, Petitioner's six-month EA ineligibility penalty shall run from May 20, 2023, the effective date of the Agency's termination of EA benefits, through November 19, 2023. See Exhibit R-8.

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. August 22, 2023

Natasha Johnson
Assistant Commissioner

