



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 11990-23 T.T.

AGENCY DKT. NO. C135984020 (UNION COUNTY DIVISION 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 he violated motel/shelter placement rules, resulting in his termination from three motel/shelter placements, thereby causing his own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On November 8, 2023, the Honorable William J. Courtney, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 9, 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 ADOPT 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 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).



Here, the record reflects that the Agency terminated Petitioner's EA benefits on the basis that he had allegedly engaged in threatening/disruptive behavior and that he had purportedly allowed an unauthorized guest, his mother, to visit him in one of his motel rooms, resulting in his termination from three motel/shelter placements, and thereby, causing his own homelessness. See Initial Decision at 2-3; see also Exhibit R-1 at 1-2, 5-13, and N.J.A.C. 10:90-6.3(c)(3), (e)(1)(iii). However, the record reflects that no one from the motel placements, nor anyone from the Agency, with direct knowledge of the alleged incidents, were present at the hearing to attest to the truth of the matter, and no corroborating documentary evidence was provided. See Initial Decision at 4-5; see also N.J.A.C. 1:1-15.5. Moreover, the ALJ found that the Agency had failed to review any such shelter rules with Petitioner, as required by regulatory authority, and had failed to submit copies of said shelter rules into the record. See Initial Decision at 4-5; see also N.J.A.C. 10:90-6.3(c). Further, the ALJ found Petitioner's testimony, disputing said motel incidents, to be credible, and also found that his testimony had not been disputed by the Agency. See Initial Decision at 2, 4. Based on the foregoing, the ALJ found that the Agency had failed to meet its burden of proof to show, by a preponderance of the credible evidence, that Petitioner had violated motel/shelter rules. See Initial Decision at 4. Accordingly, the ALJ concluded that Petitioner had not violated motel/shelter rules, and therefore, 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. Id. at 4-5; see also Exhibit R-1 at 9-13. I agree.

By way of comment, 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), regarding causing of one's own homelessness. See Initial Decision at 1-2; see also Exhibit R-1 at 10.

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

Officially approved final version. November 16, 2023

Natasha Johnson
Assistant Commissioner

