



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 **09336-22 T.W.**

AGENCY DKT. NO. **C084997008 (GLOUCESTER COUNTY DIV. 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 shelter rules, resulting in her termination from her shelter placements, and thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for November 18, 2022, but was adjourned at the joint request of the parties in order to allow Petitioner the opportunity to address her issues. The hearing was rescheduled for December 15, 2022, and was again adjourned to allow Petitioner additional time to address her issues. On January 23, 2023, the Honorable Elaine B. Frick, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On February 1, 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 MODIFY 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 service plan (“SP”) wherein she agreed, among other things, to comply with shelter rules, and that she acknowledged receipt of shelter rules. See Initial Decision at 3-4, 6, 11; see also Exhibit R-1 at 17-20, and 16a-16i, and N.J.A.C. 10:90-6.6(a). The ALJ found, Petitioner admitted, and the record substantiates, that Petitioner had violated shelter rules at two shelter placements by engaging in continued disruptive and threatening behavior, by leaving her children alone at the shelter, and by allowing her children to cook and do laundry without supervision, resulting in her termination from those shelters. See Initial Decision at 4-12, 14-15; see also Exhibit R-1 at 11-16, 26, and N.J.A.C. 10:90-6.3(c)(3), (5). The ALJ also found that on many occasions, assistance was offered to Petitioner in an attempt to address any shelter rule compliance barriers that she may have, but Petitioner failed to avail herself of such assistance. See Initial Decision at 9-12 14; see also Exhibit R-1 at 16b, 25 and 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, and had caused her own homelessness, and on those bases, affirmed the Agency’s termination of Petitioner’s EA benefits, and the imposition of a six-month EA ineligibility penalty. See Initial Decision at 10-12, 14-15; see also Exhibit R-1 at 2, and N.J.A.C. 10:90-6.1(c)(3), -6.6(a). While I agree with the Agency’s ultimate determination and 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 14-15; see also Exhibit R-1 at 2, and N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). The Initial Decision, as well as the Agency’s determination are modified to reflect these findings with respect to the applicable legal basis in this matter.

By way of 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.

By way of further comment, as the record indicates that Petitioner may have an open case with the Division of Child Protection and Permanency (“DCPP”), the Agency is directed to forward a copy of the Initial and Final Decisions to DCPP. See Initial Decision at 5, 11-12.

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

Officially approved final version. March 30, 2023

Natasha Johnson
Assistant Commissioner

