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Director

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 12738-18 L.E.

AGENCY DKT. NO. C113162008 (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 failed to comply with her EA service plan ("SP") by violating shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 5, 2018, the Honorable Catherine A. Tuohy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open until October 19, 2018, for the parties to submit additional documents. On October 25, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I 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, a violation of the shelter's health and safety policies. See N.J.A.C. 10:90-6.3(c)(3) and -6.3(c)(5). 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 violations, such as, the violation of a facility's policies concerning visitation; or the failure to observe curfew. See N.J.A.C. 10:90-6.3(e)(1)(i), (iii); see also DFD Instruction 08-5-4 at 10. An adult EA recipient who incurs two or more terminations for such reasons is subject to the loss of EA for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

EA recipients are required to develop and sign an SP with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the requirements identified in the SP, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. Ibid.

Here, the record reflects that Petitioner and her son were placed in a shelter on June 22, 2018, after Petitioner was asked to leave her mother's home. See Initial Decision at 2. On June 28, 2018, Petitioner signed an SP wherein she agreed to follow the rules of her shelter placement, and was informed that failure to do so would result in termination of EA benefits. See Initial Decision at 2; see also Exhibit R-1 at 11-16. On August 27, 2018, despite numerous citations, Petitioner was terminated from the shelter for failing to meet curfew on several occasions, for failing to return to the shelter on August 25, 2018, and for failing to keep her room clean, without good cause. See Initial Decision at 2, 3; see



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also Exhibit R-1 at 17-25. As a result, the Agency terminated Petitioner's EA benefits, and imposed the six-month EA ineligibility penalty, for being non-compliant with the SP by failure to follow shelter rules. See Initial Decision at 2-3; see also Exhibit R-1 at 2, and N.J.A.C. 10:90-6.3(c), -6.6(a). Petitioner testified that she sometimes missed curfew because of her work duties; however, admitted that when she provided documentation from her employer about staying late, the shelter did not cite her for a curfew violation. See Initial Decision at 4. Petitioner had also missed curfew when she brought her son to Pennsylvania to visit his father. See Initial Decision at 4-5. Petitioner admitted that her room was sometimes dirty, but not always, and that the night she stayed out all night, someone had died and she was with her family. See Initial Decision at 4.

The ALJ found Petitioner was aware of the shelter rules and that she was required to comply with them pursuant to her SP, but failed to follow the rules, without good cause, and therefore, the Agency's termination of EA benefits, and the imposition of a six-month EA ineligibility penalty, was proper and must stand. See Initial Decision at 7-8; see also Exhibit R-1 at 2, and N.J.A.C. 10:90-6.3(c)(5), (6), -6.6(a). While I agree with the ALJ's affirmance of the Agency's termination, I note that it appears from the record that this is Petitioner's first violation of shelter rules, and if based solely on curfew violations alone, Petitioner would have continued to be eligible for EA benefits. See Initial Decision at 2-3; see also N.J.A.C. 10:90-6.3(e)(1)(i). However, the record reflects that Petitioner failed to keep her shelter room clean, despite several prior warnings by shelter management, in clear violation of the shelter's health and safety policies. See Initial Decision at 2, 6; see also Exhibit R-1 at 17, 20, 24, and N.J.A.C. 10:90-6.3(c)(5). It is on that basis, for violating the shelter's health and safety rules, that I find that the Agency's termination of EA benefits, and the imposition of a six-month EA ineligibility penalty, proper. See N.J.A.C. 10:90-6.3(c)(5). The Initial Decision is modified to reflect this finding.

By way of comment, as Petitioner has been receiving continued assistance pending the outcome of the fair hearing, the six-month EA ineligibility penalty shall 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 determination is AFFIRMED, as outlined above.

Officially approved final version.

NOV 28 2018

Natasha Johnson
Director

