



State of New Jersey

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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 12115-18 O.K.

AGENCY DKT. NO. C470218007 (ESSEX COUNTY DIVISION OF WELFARE)

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 failed to comply with his EA service plan ("SP") by violating shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On August 27, 2018, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 28, 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, 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 AFFIRM the Agency's determination.

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, violation of the shelter's health and safety policies; or possession or use of drugs or alcohol on the premises. See N.J.A.C. 10:90-6.3(c)(4) and -6.3(c)(5).

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 executed an SP wherein he agreed, among other things, to comply with shelter rules and to participate in the Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") program. See Initial Decision at 2; see also Exhibit R-5. However, the record indicates that Petitioner failed to comply with his SP when he violated the shelter rules by bringing marijuana onto the shelter premises and endangering the safe operation of the shelter by engaging in the prohibited behavior of smoking marijuana in his room. See Initial Decision at 3-5; see also Exhibits R-5, R-13, and N.J.A.C. 10:90-6.3(c)(3), (4), (5), -6.6(a). Consequently, Petitioner was removed from that shelter. See Initial Decision at 3; see also Exhibit R-1. Although Petitioner contends that he did not engage in the claimed drug activity, the ALJ found Petitioner's drug activity was substantiated by several shelter incident reports. See Initial Decision at 3-5; see also Exhibit R-13. Further, the ALJ found that Petitioner failed to complete the required SAI/BHI drug counseling and treatment. See Initial Decision at 4; see also Exhibits R-6, R-7, and R-8. Based on the evidence presented, the ALJ concluded that Petitioner violated his SP, and therefore, the Agency's termination of



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Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 8; see also Exhibit R-2. I agree.

Finally, the ALJ found that Petitioner received proper notice of the OAL hearing scheduled for July 10, 2018, through service of said notice upon his legal counsel, and although Petitioner's counsel failed to inform Petitioner of said hearing and consequently, Petitioner failed to appear, that the Agency's termination of his continued assistance for failure to appear at the July 10, 2018, was proper and must stand. See Initial Decision at 5, 7-8; see also Exhibit R-3. I also agree.

By way of comment, Petitioner's six-month EA ineligibility penalty shall run from July 31, 2018, the effective date of the Agency's termination of continued assistance due to Petitioner's failure to appear, through January 30, 2019.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is AFFIRMED.

SEP - 4 2018

Officially approved final version.

Natasha Johnson
Director

