



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

TRENTON, NJ 08625-0716

CAROLE JOHNSON  
*Commissioner*

SHEILA Y. OLIVER  
*Lt. Governor*

NATASHA JOHNSON  
*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 09419-18 T.J.

AGENCY DKT. NO. C153589003 (BURLINGTON 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 violated her EA service plan ("SP") when she allowed unauthorized persons in her unit, in violation of shelter rules, and for being verbally aggressive toward staff. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 1, 2018, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On August 9, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination. Here, the record reflects that on January 11, 2018, Petitioner executed an SP wherein she agreed, among other things, to comply with shelter rules, and to not have any unauthorized people or visitors in her room. See Exhibit R-1 at 17-20. On April 23, 2018, Petitioner was terminated from her first shelter placement due to having unauthorized male guests in her room. See Initial Decision at 2. However, because that was Petitioner's first termination from a shelter placement due to unauthorized visitors in her room, the Agency did not terminate her EA benefits. *Ibid.*; see also N.J.A.C. 10:90-6.3(e)(1)(iii). On April 23, 2018, the Agency placed Petitioner at a second shelter, and Petitioner executed a shelter rule agreement wherein she once again agreed, among other things, to comply with shelter rules, and to not have any unauthorized visitors in her room. See Initial Decision at 2; see also Exhibit R-1 at 27-29. On June 14, 2018, Petitioner was terminated from her second shelter because she violated shelter rules by having two unauthorized male guests in her room. See Initial Decision at 2; see also Exhibit R-1 at 25, 26. As a result, the Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty. See Initial Decision at 2; see also Exhibit R-1 at 6-9, and N.J.A.C. 10:90-6.3(e)(1)(iii), -6.6(a). Nevertheless, the Agency placed Petitioner at a third shelter; however, on June 18, 2018, that shelter had requested that the Agency terminate Petitioner's stay for being disrespectful to staff and exhibiting verbally aggressive behavior. See Initial Decision at 2; see also Exhibit R-1 at 30-32. Consequently, the Agency again terminated Petitioner's EA benefits, effective June 24, 2018, for failing to comply with her SP. See Initial Decision at 2; see also Exhibit R-1 at 2-5, and N.J.A.C. 10:90-6.3(c)(3), -6.6(a).

The ALJ found that the shelter communication used to support the Agency's claim that Petitioner had male guests in her room at her second shelter placement, thereby violating her SP, constituted unreliable and inadmissible hearsay, and as such, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner failed to comply with her SP and shelter rules. See Initial Decision at 4, 5; see also Exhibit R-1 at 26, and N.J.A.C. 1:1-15.5. However, the ALJ also found that the letter from the third shelter placement detailing Petitioner's disrespectful and verbally aggressive behavior, coupled with Petitioner's and the Agency's testimony, both of



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which the ALJ found credible, permitted the otherwise hearsay letter to be admissible. See Initial Decision at 4, 6; see also Exhibit R-1 at 30-32, and N.J.A.C. 1:1-15.5. Accordingly, the ALJ concluded that Petitioner violated her SP when she was disrespectful to shelter staff in violation of shelter rules, and that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty were proper and must stand. See Initial Decision at 6; see also Exhibit R-1 at 2-5, 6-12, and N.J.A.C. 10:90-6.3(c)(3), -6.6(a). I agree.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, as it appears from the record that Petitioner may have mental health issues, see Initial Decision at 3 and Exhibit R-1 at 30, the Agency should refer Petitioner for a Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") assessment, if it has not already done so. See N.J.A.C. 10:90-6.1(c)(1)(iii). Should Petitioner be found to have substance abuse and/or mental health issues, then Petitioner is required to engage in appropriate substance abuse and/or mental health treatment, which requirements shall be incorporated into her Individual Responsibility Plan and SP. Ibid.

By way of further comment, because Petitioner has been receiving continued assistance pending the outcome of this hearing, her EA ineligibility penalty shall begin to run as of the date of the issuance of this Final Agency Decision.

Also 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.

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

Officially approved final version.

SEP 13 2018

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Natasha Johnson

Director

