



## State of New Jersey

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TRENTON, NJ 08625-0716

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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 **09281-21 A.C.**

AGENCY DKT. NO. **C107403015 (OCEAN COUNTY BOARD 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 the motel rules at two motel placements, resulting in his termination from said motel placement, and had voluntarily abandoned a third shelter placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 17, 2021, the Honorable William T. Cooper, III, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record was held open until December 20, 2021, to allow the Agency the opportunity to submit exhibits, and the record then closed. On January 7, 2022, 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 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, "[p]ossession of a weapon or an instrument used as a weapon after entry into the shelter;" and/or "[t]hreatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents" and/or See N.J.A.C. 10:90-6.3(c)(1), (3); see also DFD Instruction ("DFDI") No. 21-02-03.

Here, the ALJ found that Petitioner had violated motel rules at two motel placements by engaging in continued disruptive behavior at both placements, as well as for possession of a weapon at one placement. See Initial Decision at 2-4, 8-9; see also Exhibits R-3, R-5, and N.J.A.C. 10:90-6.3(c)(1), (3). Said behaviors resulted in police involvement and Petitioner's termination from both motel placements. See Initial Decision at 2-4; see also Exhibits R-3 through R-7, and R-9. Specifically, the ALJ found that the documentary evidence presented, and the credible testimony of both motel



managers, substantiated said motel rule violations by Petitioner. See Initial Decision at 7-8; see also Exhibits R-3 through R-7, and R-9. Further, the ALJ did not find credible Petitioner's denial of any such motel violations and did not find credible the testimony provided in support of Petitioner by his cousin and friend. See Initial Decision at 5-6, 8. The ALJ also found that Petitioner had acknowledged receipt of the "Client Agreement-Temporary Shelter" (Agreement) which details the motel/shelter rule violations that may result in a termination of EA benefits. *Id.* at 1-2, 8; see also Exhibit R-2. Additionally, the ALJ found that Petitioner had voluntarily vacated his third motel placement without advising the Agency of his whereabouts. See Initial Decision at 4, 10; see also Exhibit R-8, and N.J.A.C. 10:90-6.3(e)(1)(ii). Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of the aforementioned Agreement by repeatedly violating motel rules, resulting in his termination from those motel placements, and had voluntarily abandoned his third motel placement, and on those bases, affirmed the Agency's termination of Petitioner's EA benefits. See Initial Decision at 8-10; see also Exhibits R-1, R-2. While I agree with the ALJ's ultimate conclusion in this matter, in instances such as this, where violations of motel rules are at issue, it is the type of violation which is controlling. See Initial Decision at 2-5, 7-9; see also Exhibits R-3 through R-9; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). In this case, the record indicates that Petitioner's disruptive behaviors, weapon possession, and voluntary abandonment resulted in his termination from three motel placements, and it is on those bases where Petitioner's ineligibility for EA benefits lies. *Ibid.* The Initial Decision is modified to reflect this finding with respect to the applicable legal bases in this matter.

Further, the ALJ overlooked addressing the Agency's imposition of a six-month EA ineligibility penalty in this matter. See Initial Decision at 10; see also Exhibit R-1. Therefore, based on the foregoing, and in accordance with applicable regulatory authority, I find that the Agency's imposition of a six-month EA ineligibility penalty in this matter was proper and must stand. See Initial Decision at 3-5, 7-9; see also Exhibit R-1, and N.J.A.C. 10:90-6.3(c). However, as the record indicates that Petitioner has mental health issues, the treatment of which Petitioner had testified to being compliant with, the Agency may lift the six-month EA ineligibility penalty if it is determined that such mental health barriers had prevented Petitioner from compliance with EA benefits motel/shelter rule requirements. See Initial Decision at 5-6; see also Exhibits R-11, R-12, and N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(i)(1). The Initial Decision is also modified to reflect this finding.

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

Officially approved final version. February 17, 2022

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Natasha Johnson  
Assistant Commissioner

