



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF FAMILY DEVELOPMENT  
PO BOX 716

SARAH ADELMAN  
*Commissioner*

SHEILA Y. OLIVER  
*Lt. Governor*

TRENTON, NJ 08625-0716

NATASHA JOHNSON  
*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 **01104-22 D.G.**

AGENCY DKT. NO. **C093074008 (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 at two shelter placements, resulting in her termination from said shelter placements. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On April 19, 2022, the Honorable Tama B. Hughes, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On April 26, 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;" "[t]hreatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents" and/or "[p]ossession or use of drugs or alcohol on the premises[.]" See N.J.A.C. 10:90-6.3(c)(1), (3), (4); 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 ALJ found, and the record substantiates, that Petitioner had violated shelter rules at two shelter placements by engaging in continued disruptive behavior, for possessing drugs and alcohol on the premises, and for possessing a weapon at one placement. See Initial Decision at 3-6, 8-10; see



also Exhibits R-1 at 19-25, R-2, R-3, and N.J.A.C. 10:90-6.3(c)(1), (3), (4). Said behaviors resulted in Petitioner's termination from both shelter placements. See Initial Decision at 9-10; see also Exhibit R-1 at 19, 21, 22. Of note, the record indicates that Petitioner had been referred to the Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") by the Agency, that she had attended only 15 out of the 32 scheduled treatment sessions, and that consequently, she had been discharged from the SAI/BHI program. See Initial Decision at 2-3, 9; see also N.J.A.C. 10:90-6.3(c)(4). Specifically, the ALJ found that the documentary evidence presented, and the credible testimony of the Agency, as well as both the shelter executive director and manager from the first shelter placement and the manager from the second shelter placement, substantiated said shelter rule violations by Petitioner. See Initial Decision at 3-6, 8-10; see also Exhibits R-1 at 19-25, R-2, and R-3. Although Petitioner denied any such shelter rule violations, the ALJ did not find Petitioner's testimony credible, but rather, found her testimony to be "inconsistent and at times self-serving and disingenuous." See Initial Decision at 6-8. The ALJ also found that Petitioner had acknowledged that she was aware of the rules for both shelter placements. Id. at 9, 11; see also Exhibit R-2 at 7-9.

Based on the foregoing, the ALJ concluded that Petitioner had violated shelter rules, resulting in her termination from two shelter placements, and that she had also violated the terms of her EA service plan ("SP"), 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 10-11; see also Exhibit R-1 at 13-18, and N.J.A.C. 10:90-6.3(c)(1), (3), (4), -6.6(a). While I agree with 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. See Initial Decision at 11; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). Moreover, in this case, the record indicates that Petitioner's shelter rule violations alone formed the basis for the Agency's termination of Petitioner's EA benefits. See Initial Decision at 2; see also Exhibit R-1 at 2-3, and N.J.A.C. 10:90-6.3(c)(1), (3), (4). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter.

By way of comment, due to the continuing COVID-19 State of Emergency, and in accordance with DFDI 21-02-03, EA benefits are not currently being terminated due to SP violations until further notice.

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

Officially approved final version.

May 18, 2022

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Natasha Johnson  
Assistant Commissioner

