



## 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 **09840-22 L.B.**

AGENCY DKT. NO. **C135679020 (UNION COUNTY DIVISION 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 motel rules by engaging in disorderly activities. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 16, 2022, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. Based on the circumstances presented, the ALJ exercised judicial discretion and converted this matter to an Emergent proceeding. On December 20, 2022, the ALJ issued an Initial Decision, reversing 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 REVERSE 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, "threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents." See N.J.A.C. 10:90-6.3(c)(3); 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 record reflects that, by notice dated September 23, 2022, the Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner had violated motel rules by engaging in disruptive, destructive, and/or criminal activity, resulting in her termination from her motel placement. See Initial Decision at 2-4; see also Exhibit R-1, and N.J.A.C. 10:90-6.3(c)



(3). Said termination of Petitioner's EA benefits was based on a single email from the motel manager to the Agency, advising that Petitioner had pushed one of the motel staff. See Initial Decision at 3; see also Exhibits R-2, R-4. Said termination was also based on an alleged investigation of the matter, conducted by an Agency supervisor. See Initial Decision at 3-4; see also Exhibit R-5. However, no one from the motel, nor the Agency's investigative supervisor, nor anyone from the Agency with direct knowledge of the alleged violations, were present at the hearing to attest to the truth of the claims made in that email. See Initial Decision at 5-6. Also, the record reflects that no Agency investigative report had been filed and no such report was submitted into evidence. Ibid. Although Petitioner admitted that she engaged in a verbal conflict with the motel staff worker, she firmly denied any physical conflict. Id. at 4. The ALJ also found Petitioner's testimony, regarding the subject motel rule violation incident, to be credible. Id. at 5-6. Further, the record reflects that the motel manager's email, the Agency investigative supervisor's communications with the motel manager, and the Agency's testimony, were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record. See Initial Decision at 2-3; see also N.J.A.C. 1:1-15.5. Based on the foregoing, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the credible evidence, that Petitioner had violated her EA Service Plan ("SP") by violating motel rules. See Initial Decision at 5, 7; see also N.J.A.C. 10:90-6.6(a). Accordingly, the ALJ further concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 7-8; see also Exhibit R-1.

While I agree with the ALJ's final conclusion in this matter, it should be noted that in instances such as this, where a violation of shelter rules are at issue, it is the type of violation which is controlling, and not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter. See Initial Decision at 7.

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

Officially approved final version. December 22, 2022

---

Natasha Johnson  
Assistant Commissioner

