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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 **10189-21 S.E.**

AGENCY DKT. NO. **C199179020 (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 had caused her own homelessness when she was terminated from her motel placement for violating motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On December 20, 2021, the Honorable Barry E. Moscovitz, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents. On December 21, 2021, the ALJ issued an Initial Decision, suspending implementation of the Agency's determination until January 13, 2022.

Exceptions to the Initial Decision were filed by Petitioner on December 22, 2021. Exceptions to the Initial Decision were also filed by the Agency on December 22, 2021.

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 MODIFY, 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, "[t]hreatening 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)(2); 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).

N.J.A.C. 10:90-6.3(c) states, "EA shall not be provided to adult recipients who are terminated without good cause from an EA placement, such as a hotel/motel shelter or transitional housing for a period of six months when the termination is the result of the adult recipient's actions[.]" However, "[p]rior to



EA termination, the [Agency] shall review with the recipient the reason(s) for termination. If additional barriers are identified that may have prevented EA compliance, then the recipient is considered to have good cause and shall not be terminated and a penalty shall not be imposed. The recipient shall be required to follow through with services to address those barriers for continued EA eligibility. Such services shall be identified as mandatory activities in the EA service plan.” N.J.A.C. 10:90-6.3(g).

Here, the ALJ found that Petitioner had repeatedly violated motel rules by engaging in disruptive behaviors, which resulted in her termination from her motel placement. See Initial Decision at 2-3. The ALJ also found that Petitioner had been evicted from other housing placements due to her disruptive behaviors, and as a result, the Agency has no other hotel/motel/shelter placements where Petitioner can be housed. Id. at 3. Nevertheless, due to Petitioner’s continued mental health issues, the ALJ found that the Agency should provide Petitioner with EA benefits through January 13, 2022, the effective date of the EA benefits termination, thereby allowing Petitioner the time to submit to a mental health assessment, with a qualified mental health professional. Id. at 4. Of note, the ALJ found that the letter submitted by Petitioner as proof of that she is receiving mental health treatment was not authentic, as it was not on letterhead and its signatory provided no qualifications. Ibid. Based on the foregoing, the ALJ concluded that Petitioner’s behavior had directly caused her homelessness, but that due to her mental health issues the Agency’s termination of her EA benefits and the imposition of a six-month EA ineligibility penalty should be suspended until January 13, 2022, during which time Petitioner must submit to a mental health assessment by a qualified mental health professional, required to determine her continued eligibility for EA benefits. See Initial Decision at 4-5; see also N.J.A.C. 10:90-6.1(c)(1)(iii) (2) -6.1(c)(3)(vi). Further, the ALJ concluded that, should Petitioner fail to submit to such assessment by January 13, 2022, then the Agency’s termination of her EA benefits, and its imposition of a six-month EA ineligibility penalty, shall be affirmed and must stand. See Initial Decision at 4-5. I agree, and further note that such assessment will be subject to appropriate verification by the Agency to substantiate its authenticity.

Also, 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 4-5; 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, resulted in her termination from her motel placement, and it is on that basis where Petitioner’s ineligibility for EA benefits lies. See Initial Decision at 2-3; see also N.J.A.C. 10:90-6.3(c)(3). The Initial Decision, as well as, the Agency’s determination are modified to reflect this finding with respect to the applicable legal basis in this matter.

By way of comment, I have reviewed both Petitioner’s and the Agency’s Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

Officially approved final version.

January 13, 2022

Natasha Johnson
Assistant Commissioner

