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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 **04724-22 T.H.**

AGENCY DKT. NO. **S640508012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's denial of Work First New Jersey/General Assistance ("WFNJ/GA") and Emergency Assistance ("EA") benefits. The Agency denied Petitioner WFNJ/GA benefits, contending that he had failed to provide documentation required to determine eligibility for said benefits. The Agency denied Petitioner EA benefits, contending that he had violated motel rules, resulting in a termination from his shelter placement, and as such, had also violated his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 15, 2022, the Honorable Joan M. Burke, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On June 16, 2022, the ALJ issued an Initial Decision, reversing the Agency's determinations.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determinations, and REMAND the matter to the Agency for action, 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 DFDI 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 February 2, 2022, Petitioner was denied WFNJ/GA benefits for failure to provide documentation required to determine his eligibility for said benefits. See Initial Decision at 3-4; see also Exhibit R-F. However, the ALJ found that the Agency had first requested



such required documentation/verifications from Petitioner on February 2, 2022, the same date as its WFNJ/GA benefits denial notice. See Initial Decision at 3; see also Exhibits R-B, R-F. Therefore, the ALJ found that the Agency had not given Petitioner adequate time to provide the required documentation/verifications, and as such, concluded that the Agency's denial of WFNJ/GA benefits to Petitioner, on that basis, was improper and must be reversed. See Initial Decision at 9-10; see also Exhibit R-F, see also N.J.A.C. 10:90-2.2(a)(3) (5). I agree. Accordingly, Petitioner is instructed to provide the Agency with all required documentation/verifications within 30 days from the date of this Final Agency Decision. Upon receipt of said documentation, the Agency is instructed to reevaluate Petitioner's eligibility for WFNJ/GA benefits on an expedited basis. Petitioner is advised that if he fails to provide the required documentation/verifications within 30 days, as instructed, the Agency's denial of WFNJ/GA benefits to Petitioner shall stand. The Initial Decision is modified to reflect these findings.

The record also reflects that, by notice dated January 27, 2022, the Agency denied Petitioner EA benefits, contending that he had violated motel rules and regulations, resulting in his termination from his motel placement, and that said motel violation was also a violation of his EA SP. See Initial Decision at 2-4; see also Exhibits R-2, R-11, and N.J.A.C. 10:90-6.3(c), -6.6(a). The record indicates that said denial of Petitioner's application for EA benefits was based on an email from the motel informing the Agency of the alleged violations, and on a "Housing Incident Report" submitted by an Agency Investigator. See Initial Decision at 2, 4; see also Exhibits R-8, R-9. However, no one from the motel placement, nor the Agency Investigator, nor anyone from the Agency with direct knowledge of the claimed incident, were present at the hearing to attest to the truth of those claims. See Initial Decision at 5-7. The ALJ found that the motel email, the "Housing Incident Report," and the Agency's testimony were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record. *Id.* at 4-7; see also N.J.A.C. 1:1-15.5. *Ibid.*; see also Exhibits R-8, R-9. Additionally, on the same grounds, the ALJ found that the Agency had failed to provide any competent evidence to prove that Petitioner had caused his own homelessness by abandoning his motel placement. *Ibid.* 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 evidence, that Petitioner had failed to comply with motel rules, failed to comply with his SP, or that he had abandoned his motel placement. See Initial Decision at 8-9. Accordingly, the ALJ concluded that the Agency's denial of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 10; see also Exhibit R-11. I agree. However, I find that Petitioner's eligibility for EA benefits is contingent upon him first being determined eligible for WFNJ/GA benefits. See N.J.A.C. 10:90-6.2(a) (limiting eligibility for EA benefits to WFNJ and Supplemental Security Income benefits recipients).

Further, 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 motel rule violation which is controlling, not Petitioner's SP. See Initial Decision at 9; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). The Initial Decision is also modified to reflect this finding with respect to the applicable legal basis in this matter.

Finally, it should be noted that due to the continuing COVID-19 State of Emergency, and in accordance with DFDI 21-02-03, which was in effect at the time of Petitioner's application for EA benefits, SPs were not to be entered into between the client and the Agency, and EA benefits were not to be denied/terminated due to SP violations until further notice. See Initial Decision at 2; see also Exhibit R-2 and DFDI 21-02-03 at sections 4A, 4D.

By way of comment, the Agency is instructed to provide Petitioner with immediate need shelter/housing benefits while it is reevaluating Petitioner for WFNJ/GA benefits eligibility, as discussed above.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's determinations are REVERSED, and the matter REMANDED to the Agency, as outlined above.



Officially approved final version.

June 23, 2022

Natasha Johnson

Assistant Commissioner

