



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 **06578-22 V.T.**

AGENCY DKT. NO. **C087089015 (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 she violated motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 30, 2022, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On that date, the hearing was continued to allow Petitioner the opportunity to obtain legal counsel. Petitioner was unable to obtain counsel, and the hearing proceeded on September 9, 2022. The record was held open to allow for the submission of additional documents by Respondent and the record then closed on September 13, 2022, upon receipt of same. On September 23, 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, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination.

N.J.A.C. 10:90-6.3(g) states that, "[p]rior to EA termination, the agencies shall review, with the recipient, the reason(s) for the 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 [SP]."

N.J.A.C. 10:90-6.6(a) outlines both recipient and Agency responsibilities in helping to resolve the emergency situation and to assist the recipient in securing suitable permanent housing. Recipients' responsibilities include acknowledgment by their signature that they will comply with, and carry out, an SP. The SP shall include, as appropriate, but is not limited to: participation in programs designed to address barriers that may prohibit the individual from maintaining permanent housing, such as the



Substance Abuse Initiative/Behavioral Health Initiative (“SAI/BHI”). See N.J.A.C. 10:90-6.6(a)(1)(i). If a recipient fails to comply with the SP, without good cause, then the recipient's EA must be terminated for a period of six months. See N.J.A.C. 10:90-6.6(a).

Here, the ALJ found that Petitioner had violated the rules of her motel placement by engaging in threatening and disruptive behavior towards facility residents and staff, and for possessing a weapon on the premises, resulting in police involvement and termination from her motel placement. See Initial Decision at 3-4; see also Exhibits R-2, R-3, R-4, R-10 through R-13, and N.J.A.C. 10:90-6.3(c)(3). Nevertheless, the ALJ found that Petitioner's failure to comply with motel rules stemmed from her mental health issues, that the Agency had notice of her mental health issues, and that the Agency had failed to prove that it had considered Petitioner's mental health barriers prior to its termination of her EA benefits, as required by regulatory authority. See Initial Decision at 4-6; see also Exhibits R-1, R-7, and N.J.A.C. 10:90-6.3(g). Accordingly, the ALJ 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 6-7; see also Exhibit R-1. Of note, the ALJ also recognized that hereafter, the continued provision of EA benefits to Petitioner is conditioned upon her taking the steps necessary to address her compliance barriers. See Initial Decision at 7; see also N.J.A.C. 10:90-6.3(g). I agree.

By way of comment, based upon the record, I direct the Agency to refer Petitioner for Substance Abuse Initiative/Behavioral Health Initiative (“SAI/BHI”) evaluations, if it has not already done so. See Initial Decision at 3-7; see also Exhibit R-7; see also N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g). Should the assessment require Petitioner to engage in treatment(s), that requirement shall be incorporated into her SP. See N.J.A.C. 10:90-6.1(c)(1)(iii), -6.3(g), -6.6(a)(1)(iii)(7). Petitioner is advised that she “shall be required to follow through with services to address those barriers for continued EA eligibility.” See N.J.A.C. 10:90-6.3(g). Further, Petitioner is advised that any future violation of motel/shelter rules, or violation of her SP, may result in the termination of EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.3(c), (e), -6.6(a). Finally, although the regulations allow consideration for individuals suffering from a mental impairment or substance abuse, they do not contemplate continued EA benefits for an individual who refuses to take part in the required mental health programs, as directed. See N.J.A.C. 10:90-6.1(c)(1)(iii).

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's action is REVERSED.

Officially approved final version.

October 18, 2022

Natasha Johnson

Assistant Commissioner

