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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 03330-25 S.D.

AGENCY DKT. NO. C139518015 (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/shelter rules, as well as failed to comply with her EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing as an emergent case. The matter was initially scheduled for an emergent hearing on February 24, 2025; however, Petitioner requested the matter proceed as a regular hearing in order for her to obtain certain documentation. The matter reconvened on March 5, 2025, at which time Petitioner requested a further adjournment. On April 14, 2025, the Honorable Kim C. Belin, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, admitted documents, and the record was held open until April 18, 2025, for the submission of additional documents, and then closed. On May 2, 2025, the ALJ issued an Initial Decision, affirming in part, and reversing in part, the Agency's determinations.

No Exceptions to the Initial Decision were filed.

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 AFFIRM in part, and REVERSE, in part, the Agency's determinations, based on the discussion below.

Here, the record in this matter indicates that Petitioner informed her Agency case worker that she had received threats from her former fiancé, D.I., and had filed a restraining order against him, which led to Petitioner being placed at a motel on or about May 26, 2024. See Initial Decision at 2-3. At some point in November 2024, the Agency placed D.I. at the same motel, in the room next to Petitioner. See Initial Decision at 3. Petitioner contacted the Agency regarding D.I. being at the same placement, but no action was taken, in spite of a history of domestic violence and a restraining order being in place. See Initial Decision at 4. Based upon unexplained underlying circumstances, a Judgment of Conviction was entered against Petitioner on January 29, 2025, for possession of a controlled dangerous substance, she was sentenced to probation for two years, was required to submit to random drug and alcohol screening, and was to remain law abiding. See Initial Decision at 3; see also Exhibit R-6. Thereafter, on February 13, 2025, Petitioner was involved in a physical altercation with another motel guest, who was later identified as D.I. See Initial Decision at 2, 4. Law enforcement were involved and Petitioner was arrested and removed from the motel property. *Ibid.*; see also Exhibit R-2. On February 22, 2025, Petitioner filed an amended police report stating that her actions were made in self-defense. See Initial Decision at 4. Petitioner testified that she had been drug-free for four and a half years and completed numerous random drug and alcohol screenings, noting that she has several medical prescriptions. See Initial Decision at 4. Petitioner admitted to



having a glass of wine on the night of the incident at the motel. Ibid. Following her arrest, and in reliance upon the police report, the Agency recommended inpatient drug rehabilitation, which Petitioner rejected, contending she was attempting to obtain custody of one of her minor children and would accept an outpatient program, but not a residential program. See Initial Decision at 3-5. On March 20, 2025, the Agency terminated Petitioner's EA benefits, both for refusing the placement offered, as well as for violating shelter rules by having a physical altercation with another guest. See Initial Decision at 3, 5.

During the time Petitioner was in receipt of EA benefits, she executed an EA service plan ("SP"), on October 8, 2024, wherein she agreed, among other things, to remain drug and alcohol free and to accept any appropriate housing offered by the agency. See Initial Decision at 3; see also Exhibit R-5. Petitioner tested positive for several drugs following a drug test. See Initial Decision at 3; see also Exhibits P-7, P-8. Further, Petitioner was on probation, which required her to be drug and alcohol free and not in violation of the law. See Initial Decision at 5. Upon its review of the information provided by the motel personnel, as well as the police report, the Agency determined that Petitioner had been involved in an altercation involving physical violence, the presence of drugs, and the presence of drug paraphernalia. Ibid. At the time of the hearing, the Agency representative provided testimony that Petitioner was referred to the Substance Abuse/Behavioral Health Initiative Program, and that, as of April 2, 2025, Petitioner refused treatment. Ibid. Further, the Agency recommended Petitioner comply with a family violence risk option assessment appointment, however, Petitioner failed to attend the appointment. Ibid. The Agency additionally had been in contact with the Division of Child Protection & Permanency ("DCP&P"), who is involved with Petitioner. Ibid. Petitioner has completed three random urine tests and tested positive for alcohol, which is not permitted by the SP, and marijuana in a resulting range suggesting levels above the normal range for individuals prescribed medical marijuana. See Initial Decision at 5-6.

The ALJ found that Petitioner had violated the SP which stated she had to accept any appropriate housing offered by the Agency, understanding that the consequence of not doing so would result in the termination of her EA benefits. See Initial Decision at 7; see also Exhibit R-5 and N.J.A.C. 10:90-6.3(a)(1). The ALJ further found that the shelter rules for the motel where Petitioner was placed were not provided, nor did the motel request that Petitioner be removed, thus the ALJ concluded that Petitioner did not violate the shelter rules and that hearsay reliance upon the police reports could not lead to such conclusion. Ibid. Specifically, the ALJ found the February 13, 2025, police report to be impermissible hearsay not corroborated by testimony or legally competent evidence. See Initial Decision at 7-9. The ALJ further found that the Agency's recommendation for an inpatient rehabilitation placement was based upon the police report, which determined Petitioner to be the aggressor in the situation, as well as making various allegations concerning controlled dangerous substances. Ibid. The ALJ found no additional competent evidence, nor proffered witness(es) to corroborate the statements contained within the police report. See Initial Decision at 10. Further, Petitioner contends that she acted in self-defense. Ibid. Based on the foregoing, the ALJ found that the police report, and complaint-warrant, were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record and concluded that the Agency had failed to produce competent evidence to establish its reasons for terminating Petitioner EA benefits based upon her violating shelter rules. See Initial Decision at 10; see also N.J.A.C. 1:1-15.5. Accordingly, the ALJ found that the Agency failed to meet its burden of proof by a preponderance of the credible evidence as to the termination of Petitioner's EA benefits due to her refusal of a recommended placement. Ibid. I agree.

As to the violation of the SP, by drinking alcohol and testing positive for same, this was first reported by the DCP&P worker to the Agency representative just prior to the hearing, and neither the DCP&P worker, nor the urine screening was produced. See Initial Decision at 11. Petitioner admitted to the consumption of alcohol but contended she was unaware that one glass of wine would result in the termination of her EA benefits. Ibid. In reviewing the terms of the service plan, the ALJ found that Petitioner failed to offer any good cause for drinking alcohol in violation of the terms of her SP, thus she is in violation of her SP, and the ALJ found that the Agency met its burden of proof in properly terminating Petitioner's EA benefits and imposing a six-month disqualification on this basis. See Initial Decision at 11-12; see also N.J.A.C. 10:90-6.6(a). I also agree.

Accordingly, the Initial Decision is ADOPTED and the Agency's determinations are AFFIRMED in part, and REVERSED in part, as outlined above.

Officially approved final version. June 13, 2025

Natasha Johnson
Assistant Commissioner

