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| **PHILIP D. MURPHY** | **Department of Human Services** | **Sarah Adelman** |
| ***Governor*** | **Office of Program Integrity and Accountability** | ***Acting Commissioner*** |
|  | **PO Box 700** |  |
| **Sheila Y. Oliver** | **Trenton, NJ 08625-0700** | **Lauri Woodward** |
| ***Lt. Governor*** |  | ***Director*** |

**FINAL AGENCY DECISION**

OAL DKT. NO. HSL 06435-20

 AGENCY DKT. NO. DRA 20-006

**J.D.,**

 Petitioner,

 v.

**NEW JERSEY DEPARTMENT OF**

**HUMAN SERVICES,**

 Respondent.

**Kendal Coleman**, Esq. for petitioner

**Jessica Sampoli**, Esq. Deputy Attorney General, for respondent (Andrew J. Bruck, Acting Attorney General of New Jersey, attorney)

**STATEMENT OF THE CASE**

 Petitioner J.D. appeals the placement of her name on the Central Registry of Offenders Against Individuals with Developmental Disabilities by the Department of Human Services (Department) for substantiation of exploitation of persons receiving services from the Division of Developmental Disabilities (DDD).

**PROCEDURAL HISTORY**

 By letter dated May 15, 2020, the Department notified the J.D. that it had substantiated allegations of exploitation of individuals receiving services from the DDD with a resulting intention to place her name on the Central Registry of Offenders Against Individuals with Developmental Disabilities. Petitioner appealed that decision. The Department then transmitted the matter to the Office of Administrative Law (OAL) for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -13 and N.J.S.A. 52:14F-1 to -15 on July 14, 2020. There were several telephone conferences in this matter for petitioner to retain counsel, which she did. On or about May 19, 2021, a motion schedule was created. Respondent was to file a motion for summary decision on June 18, 2021. Respondent asked for an extension to file the motion to June 21, 2021. Respondent filed the motion on June 22, 2021. Petitioner was to reply to the motion by July 9, 2021. No opposition was received from petitioner. Petitioner was emailed on July 16, 2021, to determine if she was going to oppose the motion. As of today, Petitioner has not opposed respondent’s motion for summary decision.

**EXCEPTIONS TO INITIAL DECISION**

No exceptions have been received by the Office of Program Integrity and Accountability.

# INITIAL DECISION’S FACTUAL DISCUSSION AND FINDINGS

 Petitioner was employed by the Center for Family Support, Inc. (CFS) on or about May 2019 as a residential home manager. At that time J.B., M.B., R.K. and E.M. were residents of CFS. All of these men were developmentally disabled service recipients of the Division of Developmental Disabilities (DDD). J.D. had training on abuse, neglect, and exploitation of those in her care. She was responsible for recording the expenditures of the residents. The residents’ receipts, money and debit cards are kept in a pouch. Each resident had a separate pouch.

 In May 2019, Valerie Bowen-Townes, the assistant director of Residential Services at CFS audited the group home managed by petitioner. The audit found irregularities in the finances of J.B., M.B., R.K. and E.M. Each had an identical receipt from Nordstrom in the amount of $125.00 in their record of expenditures. There was no evidence that these four individuals made any purchases at Nordstrom. Bowen-Townes reported the discrepancies to the Teaneck Police Department.

 Petitioner was questioned by Teaneck police detective Thomas Melvin on May 22, 2019. She initially stated that there was missing money. She then stated that she put the Nordstrom receipt in J.B., M.B., R.K. and E.M.’s pouch to cover for the fact that money was missing. She put a copy of the identical Nordstrom’s receipt in each of their pouches. Upon further questioning, J.D. stated that she had stolen the money. She stated that she stole no more than five hundred dollars to pay for her son’s school at the YMCA. When she was informed that she would be charged with a crime, she recanted her confession.

 Petitioner was charged with four counts of theft under N.J.S.A. 2C:20-3A for theft from J.B., M.B., R.K. and E.M. Petitioner entered the pre-trial intervention program.

 An independent investigation was done by the Department which substantiated the thefts committed by petitioner. CFS conducted an independent investigation of J.D in this matter. It substantiated the thefts by petitioner. Petitioner was terminated by CFS and placed on the Central Registry by the Department.

**INITIAL DECISION’S LEGAL ANALYSIS AND CONCLUSION**

Pursuant to N.J.A.C. 1:1-12.5(b), a summary decision “may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” This rule is substantially similar to the summary judgment rule embodied in the New Jersey Court Rules, R. 4:46-2. See Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). In connection therewith, all inferences of doubt are drawn against the movant and in favor of the party against whom the motion is directed. Id. at 75. In Brill v. Guardian Life Insurance Co., 142 N.J. 520 (1995), the New Jersey Supreme Court addressed the appropriate test to be employed in determining the motion:

[A] determination whether there exists a ‘genuine issue’ of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. The ‘judge’s function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial’. [Brill, supra, 142 N.J. at 540 (citations omitted).]

N.J.S.A. 30:6D-73 provides:

The Legislature finds and declares that:

a. It is in the public interest for the State to provide for the protection of individuals with developmental disabilities by identifying those caregivers who have wrongfully caused them injury;

b. The safety of individuals with developmental disabilities receiving care from State-operated facilities or programs, from those facilities or programs licensed, contracted, or regulated by the Department of Human Services or Children and Families, or from State-funded community-based services shall be of paramount concern;

c. It is the intent of this legislation to assure that the lives of innocent individuals with developmental disabilities are immediately safeguarded from further injury and possible death and that the legal rights of such individuals are fully protected; and

d. Therefore, this act establishes a Central Registry of Offenders Against Individuals with Developmental Disabilities in the Department of Human Services to prevent caregivers who become offenders against individuals with developmental disabilities from working with individuals with developmental disabilities.

N.J.S.A. 30:6D-74 defines exploitation as “means the act or process of a caregiver using an individual with a developmental disability or his resources for another person’s profit or advantage.”

N.J.A.C. 10:44D-2.1(f) provides:

(f) The allegations of the types of conduct that may constitute acts of exploitation of a service recipient and that shall be reported include, but are not limited to:

1. Theft or use of a service recipient's property or private funds;

2. Misappropriation of a service recipient's identity;

3. Having a service recipient perform labor for which a service recipient is not compensated.

N.J.A.C. 10:44-2.1(d) provides for placement on the Central Registry:

In the case of a substantiated incident of exploitation, any single act or set of acts that dispossesses a service recipient or group of service recipients of a monetary value of $ 100.00 or more.

 In this matter there is no issue of material fact. J.D. was the residential manager of CFS responsible for recording the expenditures of the people under her care. She had training on abuse, neglect, and exploitation of those in her care. She admitted stealing $125 from each of the following, J.B., M.B., R.K. and E.M., who were residents of CFS receiving services from DDD. She only recanted her confession after she was told criminal charges would be filed. There was no opposition to respondent’s motion. The police, the Department, and CFS investigations substantiated exploitation of individuals receiving DDD services. The total amount of the theft was $500.

 The **ALJ CONCLUDED** that J.D. exploited J.B., M.B., R.K. and E.M. who were residents of CFS where she was the manager by stealing $125 from each of them.

**INITIAL DECISION’S ORDER**

 It is **ORDERED** J.D.’s placement on the Central Registry for exploitation is hereby **AFFIRMED**.

 The ALJ **FILED** an initial decision with the **DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY** for consideration.

 This recommended decision may be adopted, modified, or rejected by the **DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY,** who by law is authorized to make a final decision in this matter. If the Director of the Office of Program Integrity and Accountability does not adopt, modify, or reject this decision within forty‑five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B‑10.

**FINAL AGENCY DECISION**

Pursuant to N.J.A.C. 1:1-18.1(f) and based upon a review of the ALJ's Initial Decision and the entirety of the OAL file, I **CONCUR** with the Administrative Law Judge’s findings and conclusions. I **CONCLUDE and AFFIRM** that J.D. dispossessed four individuals with developmental disabilities of $125 each, by taking funds from their accounts and substituting four identical receipts in their records. I **CONCLUDE AND AFFIRM** that the dispossessed funds totaled $500, well above the regulatory threshold, warranting J.D.’s name to be listed on the Central Registry of Offenders Against Individuals with Developmental Disabilities. Therefore, the matter was correctly decided by way of summary decision because there were no relevant facts in dispute that would necessitate a hearing, as a matter of law.

I **CONCLUDE and AFFIRM** that there is a preponderance of the evidence demonstrating that J.D., a caretaker, exploited a total of $500 from four individuals with developmental disabilities and that J.D.’s placement on the Central Registry of Offenders Against Individuals with Developmental Disabilities is correct and proper.

Therefore, pursuant to N.J.A.C 1:1-18.6(d), it is the Final Decision of the Department of Human Services that I **ORDER** the placement of J.D. on the Central Registry of Offenders Against Individuals with Developmental Disabilities.

Date: 9/8/2021 

 Lauri Woodward, Director

Office of Program Integrity and Accountability