



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 **03635-24 A.D.**

AGENCY DKT. NO. **S630094012 (MIDDLESEX COUNTY BD. 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 he had violated motel policy, resulting in his termination from two shelter placements. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. The matter was filed on March 19, 2024, as an emergent contested case and scheduled for hearing on April 16, 2024, however, the Petitioner requested more time and agreed to downgrade the matter to a non-emergent case. On May 9, 2024, the Honorable Michael R. Stanzone, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record remained open for addition submissions until May 13, 2024, at which time the record then closed. On June 3, 2024, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on July 9, 2024.

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 AFFIRM 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), (3); see also DFD Instruction ("DFDI") No. 22-06-02. 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, on August 21, 2023, Petitioner applied for EA and executed an EA service plan ("SP"), and "Client Agreements", wherein he agreed, among other things, to comply with motel rules, including not to engage in any threatening or disruptive behaviors. See Initial Decision at 2; see also Exhibits R-1, R-2, R-3, R-13, R-15, and N.J.A.C. 10:90-6.6(a). On September 26, 2023, a hotel incident form was completed by the Agency investigator, following a request from the motel to remove Petitioner for disorderly behaviors involving Petitioner and a female friend. See Initial Decision at 2; see also Exhibit R-4. The motel again requested removal on October 18, 2023, alleging Petitioner had someone else staying in his room, while he was incarcerated, as well as a dog, in violation of the motel's rules. See Initial Decision at 2; see also Exhibit R-5.



On December 5, 2023, Petitioner signed a second SP. See Initial Decision at 3; see also Exhibit R-7. On January 18, 2024, the motel requested removal of Petitioner as he had unauthorized guests in his room as well as an unleashed dog. See Initial Decision at 3; see also Exhibit R-9. On January 24, 2024, an Agency investigator confirmed the complaints alleged by the motel, as well as indicating a violation of the prohibition of cooking equipment in the room. See Initial Decision at 4; see also Exhibit R-10.

The ALJ found, and the testimony and record provided substantiates, that Petitioner had violated motel rules by engaging in abusive language and threatening actions towards staff and motel residents, by having an authorized guest reside in the room, by possessing cooking utensils within the room, and by having an unauthorized animal residing in the room and roaming unleashed on the motel properties, all of which resulted in his consequent termination from his motel placements. See Initial Decision at 4; see also Exhibits R-4, R-5, R-6, R-9, R-10, R12a-d, and N.J.A.C. 10:90-6.3(c) (3). Petitioner did not refute said violation allegations with the exception of claiming his dog was an emotional-support dog. See Initial Decision at 4. Further, the ALJ did not find the testimony of Petitioner, nor his witness, the female friend mentioned in the motel complaints, to be credible or consistent. See Initial Decision at 6.

Based on the foregoing, the ALJ concluded that Petitioner had violated the terms of his SP pursuant to N.J.A.C. 10:90-6.6(a), and N.J.A.C. 10:90-6.1(c)(3)(ix), and on those bases, affirmed the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty. See Initial Decision at 7-8. While I agree with the ALJ's ultimate conclusion in this matter, in instances such as this, where violations of motel/shelter rules are at issue, it is the type of motel/shelter rule violation which is controlling, not Petitioner's SP. See N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). The Initial Decision is modified to reflect this finding with respect to the applicable legal basis in this matter.

By way of comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

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

Also by way of comment, as Petitioner has received continued assistance pending the outcome of this fair hearing, Petitioner's six-month EA penalty shall begin to run as of the date of issuance of this Final Agency Decision.

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

Officially approved final version. July 11, 2024

Natasha Johnson
Assistant Commissioner

