



State of New Jersey

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Director

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

REMAND DECISION

OAL DKT. NO. HPW 13328-18 S.H.

AGENCY DKT. NO. C643343007 (ESSEX COUNTY DIVISION OF WELFARE)

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 Petitioner was terminated from two shelter placements. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 5, 2018, the Honorable Andrew M. Baron, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On October 10, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the 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, AFFIRM the Agency's determination, and REMAND the matter to the Agency based on the discussion below.

When a WFNJ applicant/recipient has an open case with the Division of Child Protection and Permanency ("DCPP"), he/she may be eligible for EA benefits even though he/she has been found to have caused his/her own homelessness. See Exhibits R-12, R-16; see also N.J.A.C. 10:90-6.1(c) (6) (stating that "[i]n consultation with [DCPP], EA benefits shall be provided to a [DCPP] family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements"). In order for Petitioner to be eligible for EA benefits, DCPP must agree to consult with the Agency and coordinate a DCPP plan, along with the Agency's SP and Individual Responsibility Plan ("IRP"). See N.J.A.C. 10:90-6.1(c)(6)(i); see also DFD Instruction ("DFDI") 05-12-03 at 5.

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).



Here, the record reflects that Petitioner was discharged from her second shelter placement due to several violations of shelter rules, including, but not limited to, threatening and/or disruptive behaviors that affected the operations of the shelter and the safety of the other residents. See Initial Decision at 3; see also Exhibits R-1 through R-5. While I concur with the ALJ, that this was Petitioner's first discharge from a shelter placement, and that she had good cause for being discharged from her first shelter placement, I find that Petitioner's disruptive and threatening behavior, at her second shelter placement, caused her to be discharged from her second shelter placement, and as such, I find that she has caused her own homelessness. See Initial Decision at 2-3; see also Exhibits R-1 through R-5, and N.J.A.C. 10:90-6.1(c)(3)(vi), -6.3(c)(3), -6.3(e). Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, was proper and must stand. See Initial Decision at 2; see also Exhibit R-6, and N.J.A.C. 10:90-6.1(c)(3)(vi), -6.3(c)(3).

However, because it appears from the record that Petitioner may have an open case with the DCP, I find that she may be eligible for EA benefits even though she has caused her own homelessness. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1(c)(6) (stating that "[i]n consultation with [DCP], EA benefits shall be provided to a [DCP] family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements"). However, in order for Petitioner to be eligible for EA benefits, DCP must agree to consult with the Agency and coordinate a DCP plan, along with the Agency's SP and Individual Responsibility Plan ("IRP"). See N.J.A.C. 10:90-6.1(c)(6)(i); see also DFDI Instruction ("DFDI") 05-12-03 at 5. The Initial Decision is modified to reflect this finding.

Further, Petitioner is to be provided with continued assistance, pending the Agency's consultation with DCP, and DCP's commitment to coordinate its plan with the aforementioned Agency plans. If, however, DCP does not agree to work with the Agency in accordance with the requirements set forth in the DFDI, Petitioner's EA benefits will be terminated and a six-month period of ineligibility for EA benefits will be imposed. See N.J.A.C. 10:90-6.6(a), and DFDI 05-12-03. A copy of the Initial and Final Decisions in this matter shall be forwarded to DCP. The Initial Decision is also modified to reflect this finding.

By way of comment, because Petitioner will be receiving continued assistance pending the outcome of the Agency's consultation with DCP, her six-month EA ineligibility penalty will begin to run as of the date of the issuance of DCP's refusal to work with the Agency in accordance with DFDI 05-12-03, should such instance occur.

By way of further comment, Petitioner is advised that any future shelter rule violations may result in the termination of EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.1(c)(3), -6.3(c), (e).

Also by way of comment, as the record indicates that Petitioner has an open case with DCP, a copy of the Initial and Final Decisions in this matter shall be forwarded to DCP. See Initial Decision at 4.

Accordingly, the Initial Decision is hereby MODIFIED, the Agency's action is AFFIRMED, and the matter is REMANDED to the Agency based on the discussion above.

Officially approved final version.

OCT 19 2018

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Natasha Johnson  
Director

