



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
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

FINAL DECISION

OAL DKT. NO. HPW 07804-19 J.W.

AGENCY DKT. NO. C073711012 (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 she failed to comply with her EA service plan ("SP") when she was terminated from more than two shelter placements. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On July 9, 2019, the Honorable Jeffrey N. Rabin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On July 23, 2019, the ALJ issued an Initial Decision, affirming 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, and MODIFY the Agency's determination, based on the discussion below.

EA recipients are required to develop and sign an EA service plan with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the requirements identified in the service plan, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. Ibid.

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, or a violation of the shelter's health and safety policies. See N.J.A.C. 10:90-6.3(c)(3) and -6.3(c)(5). 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 DFD Instruction 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 April 29, 2019, Petitioner executed an SP wherein she agreed, among other things, to comply with motel rules. See Initial Decision at 3; see also Exhibit R-5. Based on the testimonial and documentary evidence, the ALJ found that Petitioner was terminated from two motel placements due to threatening and/or disruptive behavior that affected the operations of the facilities or the safety of the other residents. See Initial Decision at 3-5; see also Exhibits R-2, R-3, R-13. Accordingly, the ALJ found that Petitioner had violated motel rules, and as such, had violated the terms of her SP. See Initial Decision at 5; see also N.J.A.C. 10:90-6.3(c)(1), (3), (5), -6.6(a). Therefore, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 5-6; see also Exhibit R-1 at 6, and N.J.A.C. 10:90-6.3(c), -6.6(a). I agree. However, for purposes of regulatory clarification, in instances such as this where a violation of shelter/motel rules is at issue, it is the type of violation which is controlling, not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e) and 10:90-6.6(a). Here, the ALJ found that Petitioner's actions violated motel rules. See Initial Decision at 4-5. Therefore, I find that the Agency's termination of Petitioner's EA benefits and the imposition of a six-month EA ineligibility penalty, based on N.J.A.C. 10:90-6.6(a), is misplaced. See Exhibit R-1 at 6. Based on the foregoing, the Agency's determination, as well as the Initial Decision, are modified to reflect that the correct applicable regulatory authority for the termination of Petitioner's EA benefits, and the imposition of the six-month EA ineligibility penalty, is N.J.A.C. 10:90-6.3(c),(e) alone. Ibid.

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

By way of further comment, while the Agency's Notification Form indicates that Petitioner's six-month EA ineligibility penalty shall run from June 14, 2019, through December 14, 2019, I find that because Petitioner has been receiving continued assistance pending the outcome of this fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of issuance of this Final Agency Decision. See Exhibit R-1 at 6; see also N.J.A.C. 10:90-6.3(c).

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

Officially approved final version.

AUG 20 2019

Natasha Johnson
Director

