



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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TRENTON, NJ 08625-0716

NATASHA JOHNSON
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 06686-21 G.C.

AGENCY DKT. NO. C074124015 (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 had violated motel rules, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 8, 2021, the Honorable Sarah H. Surgent, Administrative Law Judge ("ALJ"), held a videoconference plenary hearing, took testimony, and admitted documents.

On October 25, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that, by notice dated July 30, 2021, the Agency terminated Petitioner's EA benefits, effective August 29, 2021, and imposed a six-month EA ineligibility penalty, contending that Petitioner had violated motel rules, which resulted in her termination from two motel placements, thereby causing her own homelessness. See Initial Decision at 5; see also Exhibit R-1, and N.J.A.C. 10:90-6.1(c)(3), -6.3(c)(5). Said termination of Petitioner's EA benefits was based upon a facsimile correspondence from the first motel's manager and an email from a staff member at the second motel, wherein the Agency had been advised that certain motel rules had allegedly been violated by Petitioner. See Initial Decision at 3-5; see also Exhibits R-4, R-5. Photographs and a video of the alleged motel violations were also submitted into evidence. See Exhibits R-6 through R-9. However, no one from those motels, nor anyone from the Agency with direct knowledge of the alleged violations, were present at the hearing to attest to the truth of the claims made in those communications. See Initial Decision at 5, 11. Petitioner denied that she had willfully violated motel rules. *Id.* at 2, 7-8. The ALJ found Petitioner's testimony, denying any such violations, to be credible. *Id.* at 9-11. Accordingly, the ALJ found that the motel communications and the Agency's testimony were hearsay within the dictates of the Residuum Rule, not supported by credible competent evidence in the record. *Id.* at 5-6, 15-16; see also N.J.A.C. 1:1-15.5(a), (b). As such, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner had violated motel rules. See Initial Decision at 15-16.

Further, the ALJ concluded that the Agency had not gone over motel rules, as required by the relevant EA regulations, nor was there evidence that either motel had gone over its rules, with Petitioner. *Id.* at



3-6, 15-16; see also Exhibits R-2, R-3, and N.J.A.C. 10:90-6.3(c). The ALJ also found that Petitioner has mental health issues, that the Agency had knowledge of such issues, that said mental health issues may have inhibited her ability to comply with motel rules, and that the Agency had failed to reach out to her, prior to its termination of her EA benefits, to determine if barriers to compliance with EA existed. See Initial Decision at 6-7, 11; see also N.J.A.C. 10:90-6.3(g). Accordingly, based on Petitioner's mental health issues, the ALJ concluded that Petitioner had good cause for failing to comply with motel rules. See Initial Decision at 6, 7, 11, 16; see also N.J.A.C. 10:90-6.3(g).

Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. See Initial Decision at 15-16; see also Exhibit R-1. I agree.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, as it appears from the record that Petitioner may have substance abuse and/or mental health issues, the Agency should refer Petitioner for Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") evaluations, if it has not done so already, to determine whether Petitioner lacks the functional capacity to plan and avoid homelessness. See Initial Decision at 6-7, 11; see also N.J.A.C. 10:90-6.1(c)(1)(iii). Should Petitioner be found to have substance abuse and/or mental health issues, then Petitioner is required to engage in appropriate treatment, which requirements shall be incorporated into her Individual Responsibility Plan and EA service plan. See N.J.A.C. 10:90-6.1(c)(1)(iii). Further, it is the Agency's responsibility to determine the most appropriate form of EA benefits housing required to meet Petitioner's particular circumstances, which may include supervised placement. See Initial Decision at 16; see also N.J.A.C. 10:90-6.3(a)(1).

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

DEC - 7 2021

Natasha Johnson
Assistant Commissioner

