



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT
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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 **06160-24 E.C.**

AGENCY DKT. NO. **C805939007 (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 he violated shelter placement rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On May 13, 2024, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On May 14, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that the Agency terminated Petitioner's EA benefits on the basis that he had violated shelter rules by allegedly refusing to provide mandatory urine samples, resulting in his termination from the shelter placement. See Initial Decision at 2-3; see also Exhibit R-1, and N.J.A.C. 10:90-6.3(c)(5), and N.J.A.C. 10:90-6.1(c)(3)(iv). The record also reflects that the Agency relied upon a termination and incident report submitted by shelter personnel as the basis for its termination. See Initial Decision at 3; see also Exhibit R-1. However, the ALJ found that the Agency's testimony was hearsay, as no one from the shelter placement, nor anyone from the Agency, with direct knowledge of the alleged incident, were present at the hearing to attest to the truth of the matter, and no corroborating documentary evidence was provided. See Initial Decision at 3, 5-8; see also N.J.A.C. 1:1-15.5. Further, the ALJ found Petitioner credible when he testified that he had not refused to provide a urine sample, but rather was physically unable to do so due to lack of privacy during the urine sample process, and that he was refused private accommodations, as requested, so that he could provide said urine sample. See Initial Decision at 3-4. The ALJ also found Petitioner credible when he testified that the shelter had not on any other occasion requested a urine sample, which he again allegedly refused. See Initial Decision at 3-4, 8. Additionally, the ALJ found that the Agency had failed to review any such shelter rules with Petitioner, as required by regulatory authority. See Initial Decision at 6; see also N.J.A.C. 10:90-6.3(c). Based on the foregoing, the ALJ found that the Agency had failed to meet its burden of proof to show, by a preponderance of the credible evidence, that Petitioner had violated shelter rules. See Initial Decision at 7-8. Accordingly, the ALJ concluded that Petitioner had not violated shelter rules, and therefore, 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. *Ibid*; 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, 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 that Petitioner had caused his own homelessness pursuant to N.J.A.C. 10:90-6.1(c)(3), nor violated the of any EA service plan pursuant to N.J.A.C. 10:90-6.6(a). See Initial Decision terms at 6-7; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e).

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

Officially approved final version. May 22, 2024

Natasha Johnson
Assistant Commissioner

