



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

SARAH ADELMAN
Commissioner

TAHESHA L. WAY
Lt. Governor

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 **14440-24 M.H.**

AGENCY DKT. NO. **C118737008 (GLOUCESTER COUNTY DIV. 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 they violated motel placement rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On October 18, 2024, the Honorable Tricia M. Caliguire, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record remained open through the end of October 21, 2024, to allow for the submission of additional evidence, and upon receipt of same, the record then closed on that date. On October 22, 2024, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on October 24, 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 REVERSE 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). 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 outside guests. See N.J.A.C. 10:90-6.3(e)(iii); 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 the Agency terminated Petitioner's EA benefits on the basis that they had violated shelter rules by allegedly allowing an outside guest to reside in their room, and by engaging in the criminal activity of theft. See Initial Decision at 2-4; see also Exhibit R-1 at 2-3, and N.J.A.C. 10:90-6.3(c)(3), and N.J.A.C. 10:90-6.3(e)(1)(iii). However, the ALJ found that no one from the Agency, nor any one from the motel placement, with direct knowledge of the alleged incidents, 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; see also Exhibit R-1 at 32-79, and N.J.A.C. 1:1-15.5. Specifically, the ALJ found that the Agency had failed to prove that the motel owner had prohibited overnight guests, that criminal activity had occurred at the motel, and that Petitioner was involved in any such alleged criminal activity. See Initial Decision at 5-6. Based on the foregoing, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the credible evidence, that Petitioner had violated motel rules, and had thereby caused their own homelessness,



without good cause, citing to N.J.A.C. 10:90-6.3(a)(7)(c). See Initial Decision at 6. Accordingly, the ALJ further 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. Ibid.; see also Exhibit R-1 at 2-3. 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 the regulatory authority set forth at N.J.A.C. 10:90-6.1(c)(3), the causing of one's own homelessness, or N.J.A.C. 10:90-6.6(a), the violation of an EA service plan. See Initial Decision at 6; see also N.J.A.C. 10:90-6.3(c) versus N.J.A.C. 10:90-6.3(e). Of note, N.J.A.C. 10:90-6.3(a)(7)(c), cited by the ALJ, is not a valid regulatory cite. See Initial Decision at 6. The Initial Decision is modified to reflect these findings with respect to the applicable legal basis in this matter.

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

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

Officially approved final version. October 30, 2024

Natasha Johnson
Assistant Commissioner

