



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 08677-18 J.B.

AGENCY DKT. NO. S580360012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits due to Petitioner's non-compliance with his EA service plan ("SP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 22, 2018, the Honorable David M. Fritch, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 25, 2018, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, 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 AFFIRM the Agency's determination.

Here, the record reflects that on March 6, 2018, Petitioner executed an SP wherein he agreed, among other things, to comply with motel/shelter rules, and to abide by the health and safety policies of the motel, including those regarding smoking in undesignated areas. See Initial Decision at 2; see also Exhibit R-2. The record further shows that Petitioner was then placed at a motel by the Agency. See Initial Decision at 2. On April 30, 2018, the motel requested to have Petitioner removed for violation of the motel's policies, specifically, smoking in his room, arguing with the hotel staff, and damaging motel property. Id. at 2-3; see also Exhibit R-4, and N.J.A.C. 10:90-6.3(c)(2), -6.3(c)(5). On May 11, 2018, the Agency terminated Petitioner's EA benefits; Petitioner then appealed and was granted a fair hearing. See Initial Decision at 3; see also Exhibit R-7. On the fair hearing date, the Agency withdrew its adverse action, and Petitioner agreed to withdraw his appeal after being warned that "he must not smoke in unauthorized place[s] while under EA placement, must not cause damages, and must not have unauthorized guests stay in the room provided under EA." See Initial Decision at 3; see also Exhibit R-8.

Thereafter, Petitioner executed a new SP on June 1, 2018, agreeing to abide by motel/shelter rules and acknowledging that he is not allowed to have unauthorized guests stay with him and that he was not allowed to smoke in his room. See Initial Decision at 3; see also Exhibit R-9 at 4. On or around June 4, 2018, the motel requested to have Petitioner removed for having an unauthorized guest stay with him, and for causing a disturbance with the unauthorized guest which resulted in the summoning of the local police department to Petitioner's room. See Initial Decision at 3; see also Exhibit R-11. Petitioner admitted that, during his stay at the first hotel he had damaged the front entrance door, and had smoked in his room. See Initial Decision at 4. Petitioner also admitted that while living at the second motel, his girlfriend would stay with him and they would sometimes engage in loud fights. Id. at 5. Petitioner also testified that he was fighting with his girlfriend and the police were called to the room in response to the noise. Ibid. Based on the foregoing, the ALJ concluded that Petitioner failed to comply with his SP, without good cause. Id. at 5-6; see also Exhibit R-9. I agree.



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The ALJ also imposed a six-month period of ineligibility for EA benefits upon Petitioner, finding that he had been evicted twice from his EA motel placement. See Initial Decision at 7; see also N.J.A.C. 10:90-6.3(f). While I concur with the ALJ's imposition of a six-month period of ineligibility for EA benefits upon Petitioner, I disagree with the regulatory authority relied upon by the ALJ, as that regulatory subsection is applicable to minor violations of a motel's policies such as improper visitations to an EA placement. See N.J.A.C. 10:90-6.3(f). While Petitioner did violate the motel's rules pertaining to visitation, I find that the more serious violations, contained in -6.3(c), are prevailing as to the imposition of the six-month period of EA ineligibility in this matter, particularly in light of the fact that Petitioner had previously been given a warning. See Initial Decision at 3; see also Exhibit R-9. Specifically, I find that -6.3(c)(2) (destruction of motel property), -6.3(c)(5) (disruptive behavior affecting the operation of the motel), and -6.3(c)(5) (violation of health and safety policies, including smoking in non-designated areas), as well as -6.6(a) (violation of an SP), are the proper regulatory authority and basis for imposition of the six-month EA penalty in this matter. See Initial Decision at 7. The Initial Decision is modified to reflect this finding.

By way of comment, as Petitioner has been receiving continued assistance pending the outcome of this hearing, his EA ineligibility penalty shall begin to run as of the date of the issuance of this Final Agency Decision.

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

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is AFFIRMED.

Officially approved final version. **JUN 28 2018**

Natasha Johnson
Director

