



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
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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 02606-19 D.J.

AGENCY DKT. NO. C081549003 (BURLINGTON 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") by violating shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 11, 2019, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 22, 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 REVERSE 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 08-5-4 at 10. An adult EA 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, Petitioner's SP required her to comply with shelter rules. See Initial Decision at 2; see also Exhibit R-1 at 21-22. The ALJ found that Petitioner failed to comply with the terms of her SP when she was evicted from her shelter placement for having an unauthorized male guest in her room, in violation of the shelter rules, and affirmed the Agency's termination of Petitioner's EA benefits. See Initial Decision at 2-3; see also Exhibit R-1 at 27, and N.J.A.C. 10:90-6.6(a). I agree with the ALJ's finding that Petitioner failed to abide by shelter rules in this instance. However, because it appears from the record that this is Petitioner's first termination from a shelter placement, and said termination is due to a violation of a facility's policy concerning visitation, which, in accordance with N.J.A.C. 10:90-6.3(e)(1)(iii), constitutes a minor violation, I find that Petitioner remains eligible for EA benefits. Moreover, the Agency should note that, in instances such as this, where a violation of shelter/motel rules are at issue, it is the type of violation which is controlling, and not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). Accordingly, I find 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. The Initial Decision is modified to reflect these findings.

By way of comment, Petitioner is hereby put on notice that any further violation of placement/shelter rules or violation of her SP will result, in not only the termination of her EA benefits, but also the imposition of a six month period of ineligibility for EA benefits. See N.J.A.C. 10:90-6.3(e)(1), -6.6(a).

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

Officially approved final version.

Natasha Johnson
Director

APR 16 2019

