



State of New Jersey

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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 09315-19 F.T.

AGENCY DKT. NO. C117445003 (BURLINGTON 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, contending that he failed to comply with his 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 August 14, 2019, the Honorable Susan L. Olgiati, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 4, 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, 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 MODIFY 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 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, Petitioner's SP required him to comply with shelter rules. See Initial Decision at 2; see also Exhibits R-2, R-3. The ALJ found that Petitioner failed to comply with the terms of his SP, when he was evicted from his shelter placement for having unauthorized guests in his room on several



occasions, in violation of the shelter rules, and affirmed the Agency's termination of Petitioner's EA benefits. See Initial Decision at 5-6; see also Exhibits R-7, R-10 at 31-34, 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. See Initial Decision at 6-7. However, Petitioner admitted that he had also been evicted from two previous shelter placements due to unauthorized guests staying in his room, and it is on the basis of these multiple, "less severe, minor violations," that I find Petitioner ineligible for EA benefits for a period of six-months. Id. at 4; see also N.J.A.C. 10:90-6.3(e)(1)(iii). Moreover, it appears from the record that this is Petitioner's fourth termination from a shelter placement, due to a violation of a facility's policy concerning visitation. See Initial Decision at 3; see also Exhibits R-7, R-11, R-12, R-13, R-14. For purposes of regulatory clarification, in instances such as this where a violation of shelter/motel rules is at issue, it is the type of violation which is controlling, not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e) and 10:90-6.6(a). Therefore, I find that the Agency's termination of Petitioner's EA benefits based on N.J.A.C. 10:90-6.6(a), is misplaced. See Initial Decision at 3; see also Exhibit R-10. Based on the foregoing, the Agency's determination, as well as the Initial Decision, are modified to reflect that the correct applicable regulatory authority for the termination of Petitioner's EA benefits, and the imposition of the six-month EA ineligibility penalty, is N.J.A.C. 10:90-6.3(e) alone. See Initial Decision at 6-7; see also Exhibit R-10.

By way of comment, as Petitioner has been receiving continued assistance pending the outcome of the fair hearing, his six-month 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 action is MODIFIED, as outlined above.

Officially approved final version.

OCT - 2 2019

Natasha Johnson

Assistant Commissioner

