



## State of New Jersey

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*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 **10489-19 J.S.**

AGENCY DKT. NO. **S584768012 (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, contending that she was terminated from two shelter placements for failure to comply with shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 6, 2019, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 7, 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 AFFIRM the Agency's determination, based on the discussion below.

EA recipients are required to develop and sign an EA service plan ("SP") with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the requirements identified in the SP, 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 08-05-04 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 ALJ found, and the record substantiates, that Petitioner was terminated from two shelter placements for, among other things, having unauthorized guests staying in her room. See Initial Decision at 3-4; see also Exhibits R-G, R-H, R-I, R-J. The ALJ also found that Petitioner failed to provide



good cause to explain her non-compliance with the shelter rules. See Initial Decision at 5. Moreover, the record reflects that Petitioner was terminated from a third shelter, where she had been placed by the Agency pending the fair hearing, for having an unauthorized guest staying in her room, among other things. See Initial Decision at 4; see also Exhibits R-K, R-L. Based on the foregoing, I find that the Agency properly terminated Petitioner's EA benefits in accordance with N.J.A.C. 10:90-6.3(e)(1) (iii). See Exhibit R-M. Further, 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). The Initial Decision is modified to reflect this finding.

Additionally, the ALJ found, and the record substantiates, that Petitioner violated the terms of her SP by failing to comply with the Substance Abuse Initiative ("SAI") requirements, and by failing to apply for Supplemental Security Income ("SSI") benefits, without good cause. See Initial Decision at 4-5; see also Exhibits R-B, R-G, R-O. Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits was proper and must stand. See Initial Decision at 4-5; see also Exhibit R-M, and N.J.A.C. 10:90-6.6(a). I agree.

Finally, because I find that Petitioner has violated shelter rules, resulting in a termination from two shelter placements, and because I agree with the ALJ's conclusion that Petitioner has failed to comply with her SP, I hereby impose upon Petitioner a six-month period of ineligibility for EA benefits. See Initial Decision at 5; see also N.J.A.C. 10:90-6.3(e)(1), -6.6(a). Petitioner's six-month EA ineligibility penalty shall run from June 29, 2019, the effective date of the Agency's termination of EA benefits, through December 28, 2019. See Exhibit R-M. The Initial Decision is also modified to reflect these findings.

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

Officially approved final version.

**AUG 13 2019**

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Natasha Johnson  
Director

