



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 07324-19 K.A.

AGENCY DKT. NO. C239891020 (UNION COUNTY DIVISION 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 he failed to comply with his EA service plan ("SP") by failing to comply with shelter rules, resulting in his eviction. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 14, 2019, the Honorable JoAnn LaSala Candido, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On June 20, 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 MODIFY the Agency's determination, as discussed 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, "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), -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 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 him to comply with shelter rules. See Initial Decision at 2; see also Exhibit R-1 at 9. The ALJ found that Petitioner failed to comply with the terms of his SP, when he was evicted from his third shelter placement for violation of the shelter rules, thereby causing his own homelessness, and affirmed the Agency's termination of Petitioner's EA benefits. See Initial Decision at 2-3; see also Exhibit R-1 at 1-4, 6-15, and N.J.A.C. 10:90-6.1(c)(3), -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 2. However, in instances such as this, where a violation of shelter/motel rules are at issue, it is the type of violation which is controlling, not the SP, and not the causing of one's own homelessness as set forth at N.J.A.C. 10:90-6.1(c). See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this instance, the record indicates that Petitioner was terminated from his three shelter placements due to disruptive behavior, and on those bases, I find that Petitioner has violated shelter rules, and is ineligible for EA benefits for a period of six months in accordance with both N.J.A.C. 10:90-6.3(c)(3), -6.3(e). See Initial Decision at 2; see also Exhibit R-1 at 1-4. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Exhibit R-1 at 11-15. The Initial Decision, as well as, the Agency's determination, are modified to reflect these findings with respect to the applicable legal basis in this case.

By way of comment, as Petitioner has received continued assistance pending the outcome of this fair hearing, the six-month EA ineligibility penalty shall begin to run as of the date of issuance of this Final Decision. See N.J.A.C. 10:90-6.3(c).

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

Officially approved final version.

Natasha Johnson
Director

JUL 31 2019

