



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 **05349-20 B.H.**

AGENCY DKT. NO. **C130837003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

Petitioner appeals from the Respondent Agency's termination of immediate need motel/shelter placement. The Agency terminated Petitioner's immediate need shelter placement, contending that she violated shelter rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On June 15, 2020, the Honorable Dean J. Buono, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. On June 16, 2020, the ALJ issued an Initial Decision, affirming the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on June 16, 2020.

As Assistant Commissioner, 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, based on the discussion below.

N.J.A.C. 10:90-1.3(a) states, "All applicants for WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determined that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made." In relevant part, immediate need "means the assistance unit lacks shelter or is at imminent risk of losing shelter." See N.J.A.C. 10:90-1.3(a)(1); see also DFDI Instruction ("DFDI") 19-04-01. Of note, the termination of immediate need assistance is not appealable as such assistance is not considered EA benefits. See DFDI 08-11-01 at 4, and DFDI 19-04-01 at 5.

N.J.A.C. 10:90-6.1(c)(3) states, in pertinent part, EA benefits shall not be provided for a period of six months "when an adult EA applicant or recipient has caused his or her own homelessness, without good cause[.]" Specifically, a recipient is ineligible for EA benefits for a period of six months when a "recipient's behavior directly caused the eviction." N.J.A.C.10:90-6.1(c)(3)(vi).

Here, the record reflects that at the time Petitioner applied for EA benefits she was provided with immediate need housing assistance by the Agency. See Initial Decision at 2; see also N.J.A.C.



10:90-1.3(a). The ALJ found that Petitioner had violated shelter rules by threatening to harm other guests and staff, without good cause, and Petitioner admitted to having engaged in two such altercations with motel guests. See Initial Decision at 2-4; see also R-1 at Exhibit G. Accordingly, the ALJ concluded that the Agency's termination of Petitioner's immediate need motel/shelter placement was proper and must stand. See Initial Decision at 4; see also R-1 at Exhibits A, D, I.

While I concur with the ALJ's conclusion, that Petitioner had violated shelter rules without good cause, the termination of immediate need assistance is not appealable as such assistance is not considered EA benefits. See DFDI 08-11-01 at 4 and DFDI 19-04-01. Nevertheless, although it appears from the record that the Agency had not officially denied EA benefits to Petitioner, which would have been the proper procedure in this instance, I find that because Petitioner's behavior resulted in the termination from her immediate need motel placement, she has caused her own homelessness, and as such, she is ineligible for EA benefits for a period of six months. See Initial Decision at 4; see also N.J.A.C. 10:90-6.1(c)(3)(vi). The Initial Decision and the Agency's determination are both modified to reflect these findings.

By way of comment, the Agency is reminded that immediate need housing assistance is not considered EA, and therefore, it is not the termination of immediate need that is the appealable adverse action, but rather, it is the denial of the underlying EA benefits application that is the appealable adverse action. See R-1 at Exhibit E; see also N.J.A.C. 10:90-6.1 et seq., and DFDI 08-11-01 at 4 and DFDI 19-04-01 at 5.

By way of further comment, I have reviewed Petitioner's Exceptions, and I find that the arguments made therein do not alter my decision in this matter.

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

JUN 23 2020

Officially approved final version.

Natasha Johnson
Assistant Commissioner

