



State of New Jersey

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FINAL AGENCY DECISION

OAL DKT. NO. HSL 14155-17

AGENCY DKT. NO. DRA#17-007

L.O.,
Petitioner,

v.

DEPARTMENT OF HUMAN SERVICES,
Respondent.

L.O. appealed the finding of the Department of Human Services (DHS), that he committed an act of exploitation, as defined in N.J.S.A. 30:6D-74, against a service recipient of the Division of Developmental Disabilities (Division) and the decision to place his name on the Central Registry of Offenders against Individuals with Developmental Disabilities (Central Registry) N.J.S.A. 30:6D-77.

PROCEDURAL HISTORY:

The Office of Program Integrity and Accountability's Office of Investigations investigated an unusual incident concerning L.O. and an individual who receives services from the Division. By letter dated August 16, 2017, L.O. was notified that the investigation had substantiated exploitation of a service recipient and that a decision whether to place his name on the Central Registry was pending. L.O. requested a hearing on the placement. DHS transmitted the matter to the Office of Administrative Law (OAL) where it was filed on September 26, 2017 as a contested case. Prehearing conferences were conducted on October 25, 2017, and December 6, 2017, and thereafter, the hearing was held on February 15, 2018. The record was closed on March 16, 2018, upon receipt of summation briefs. Based on the documents submitted, the ALJ issued an Initial Decision.

EXCEPTIONS:

No exceptions were received.

INITIAL DECISION:

The ALJ correctly stated and applied the laws governing the matter. The New Jersey Legislature created the Central Registry to protect the legal rights and safety of individuals with developmental disabilities by identifying those caregivers who have wrongfully caused them injury and then preventing such caregivers from working with individuals with developmental disabilities. An individual will be listed on the Central Registry if he or she has committed an act of exploitation over a certain amount of money determined by the Department by regulations. A substantiation of exploitation shall be based upon the preponderance of the evidence found during the investigation.

Based on the testimony of two witnesses for the Department, documents submitted at the hearing (ten by the Department and one by L.O.) and the summation briefs submitted by the attorneys for both parties, the ALJ found as **FACT**:

- that on January 25, 2017, L.O. worked as a caregiver in a group home operated by AdvoServ.
- that AdvoServ is contracted by the State of New Jersey to run the day-to-day operations of the group home.
- that J.C. resides in the group home where L.O. worked as a caregiver during the time in question.
- that J.C. is a DDD service recipient.
- that on January 25, 2017, while on duty, L.O. borrowed money from J.C. in excess of \$100.

Citing the definitions of “caregiver” and “exploitation” in N.J.A.C. 10:44D-1.2, the ALJ established that L.O. was a caregiver for J.C., a service recipient with the Division of Developmental Disabilities, on January 25, 2017. The ALJ rejected L.O.’s assertion that J.C. was not a person protected by the Central Registry. The ALJ found as undisputed that L.O., a caregiver for J.C., took a “loan” from J.C. The fact that J.C. may function at a higher level than some of the other residents does not declassify him as a developmentally disabled individual as L.O. argues, or somehow signify that he has the capacity to enter into a financial transaction. The ALJ also rejected the position that the employee handbook’s narrower definition of exploitation somehow takes precedence over the law by requiring an element of intent. The ALJ found that for all intents and purposes, the handbook and the regulations prohibit the same conduct and is no excuse under the law. The ALJ **CONCLUDED** that the Department had properly determined that L.O. exploited money from J.C.

The second issue in determining whether L.O.’s placement on the Central Registry was proper is the dollar amount of the money involved. N.J.A.C. 10:44D-4.1(d) states the elements for placement to be:

“In the case of a substantiated incident of exploitation, any single act or set of acts that dispossesses a service recipient or group of service recipients of a monetary value of \$100.00 or more.”

The ALJ found as undisputed that L.O. took money from J.C. in excess of \$100. Despite L.O.’s argument that his conduct was not the type of offense that the Legislature sought to prevent by creating the Central Registry, the ALJ disagreed. A caregiver taking advantage of an individual with a developmental disability for his own gain is exactly the type of conduct that the

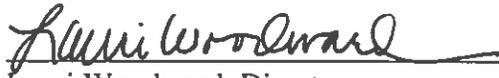
Legislature sought to prevent. For the foregoing reasons, the ALJ **CONCLUDED** that both elements for placement on the Central Registry for exploitation had been met and that the Department's determination to place L.O. on the Central Registry was **AFFIRMED**.

FINAL AGENCY DECISION

Pursuant to N.J.A.C. 1:1-18.1(f) and based upon a review of the ALJ's Initial Decision and the entirety of the OAL file, I concur with the Administrative Law Judge's findings and conclusions. **I CONCLUDE and AFFIRM** that the Department has met its burden of proving sufficiently that L.O. committed an act of exploitation against J.C., an individual with developmental disabilities, and that L.O.'s placement on the Central Registry was appropriate.

Therefore, pursuant to N.J.A.C 1:1-18.6(d), it is the Final Decision of the Department of Human Services that **I ORDER** the placement of L.O. on the Central Registry of Offenders against Individuals with Developmental Disabilities.

Date: May 29, 2018



Lauri Woodward, Director
Office of Program Integrity and Accountability