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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 01197-18 C.W.

AGENCY DKT. NO. C083555015 (OCEAN COUNTY BOARD 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 she violated her EA service plan ("SP") by allowing unauthorized persons to reside in her rental unit. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 2, 2018, the Honorable Edward J. Delaney, Jr., Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents.

On March 23, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that Petitioner executed SPs wherein she agreed, among other things, that no unauthorized persons were allowed to reside with her in the rental unit. See Initial Decision at 2; see also Exhibits R-17 at 3, R-18 at 3. After an Agency investigation, and Petitioner's own written admission, the Agency determined that Petitioner had unauthorized persons residing with her from September through October, 2017, and consequently, terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty for violating her SP. See Initial Decision at 3-4; see also Exhibits R-1, R-20, R-21, and N.J.A.C. 10:90-6.6(a).

However, the ALJ found Petitioner credible when she testified that her son and his girlfriend had only stayed overnight at her residence on ten occasions during the months of September and October, 2017, in order to assist her in dealing with her Post-Traumatic Stress Disorder ("PTSD") issues, and that she was aware that she was not permitted to allow any persons to reside with her. See Initial Decision at 7-8. The ALJ also found that although Petitioner stated in writing that her son and his girlfriend were "living" with her, it is unclear if she intended her statements to mean that her son and his girlfriend were dwelling permanently with her, or if they were only dwelling with her for a considerable time. *Id.* at 8-9; see also Exhibit R-20. Specifically, the ALJ found that Petitioner's son and his girlfriend resided at other addresses, and had not sought to change those addresses to Petitioner's place of residence, and that although they may have stayed with Petitioner for a considerable time during October 2017, such stays were for the purpose of assisting Petitioner with her PTSD issues. See Initial Decision at 9. Based on the foregoing, the ALJ concluded that Petitioner did not violate her SP by allowing unauthorized persons to permanently reside with her. *Ibid.* Moreover, in light of Petitioner's PTSD, the ALJ found that the Agency should have reached out to Petitioner to determine if there were any potential barriers which may have prevented her from complying with her SP, as required pursuant to N.J.A.C. 10:90-6.3(g), but it had not. See Initial Decision at 9; see also Exhibit C. Accordingly, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. *Id.* at 10; see also Exhibit R-1, and N.J.A.C. 10:90-6.6(a). I agree.



No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, as it appears from the record that Petitioner may have substance abuse and mental health issues, see Initial Decision at 4 and Exhibit C, the Agency should refer Petitioner for a Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") assessment, if it has not already done so. See N.J.A.C. 10:90-6.1(c)(1)(iii). Should Petitioner be found to have substance abuse and/or mental health issues, then Petitioner is required to engage in appropriate substance abuse and/or mental health treatment, which requirements shall be incorporated into her Individual Responsibility Plan and SP. Ibid.

By way of further comment, Petitioner is advised that any future violation of her SP, particularly allowing unauthorized visitors to reside with her, without Agency approval, may result in the termination of her EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.6(a).

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

APR 27 2018

Natasha Johnson

Director

