



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 6390-15 A.R.

AGENCY DKT. NO. C140281 (BURLINGTON COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits in the form of motel placement, and the imposition of a six month period of EA ineligibility. The Agency terminated Petitioner's EA for failure to comply with her service plan due to an alleged violation of shelter rules. Because Petitioner appealed, this matter was transmitted to the Office of Administrative Law for a hearing. On July 22, 2015, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 11, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the record for this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

EA is a supportive service designed to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on a path to self-sufficiency. See N.J.A.C. 10:90-6.1(a). EA recipients are required to develop a service plan with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the

activities and requirements identified in the service plan, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. Ibid.

The record reflects that Petitioner applied for and was awarded EA benefits, and was placed into a motel. See Exhibit R-1 at 9-13. At that time, Petitioner executed an EA service plan wherein she agreed, among other things, to comply with shelter rules. See Exhibit R-1 at 14-18. The service plan clearly states that failure to comply with shelter rules is cause for terminating shelter placement and EA benefits. Id. at 18. By her signature, Petitioner acknowledged that she agreed to, and understood, the terms of her service plan. Id.

Thereafter, the Agency terminated Petitioner's placement at the motel, effective April 30, 2015, based on a letter it received from the motel manager dated April 20, 2015. See Exhibit R-1 at 19. In that letter, the manager asked that Petitioner be placed elsewhere because she "had several arguments with another guest and the police have been on the property several times to intervene." Id. As a result, the Agency terminated Petitioner's EA, and imposed a six-month EA ineligibility penalty upon her, because she failed to comply with her service plan by violating shelter rules. Id. at 20.

At the hearing, the ALJ took testimony from Petitioner and from Petitioner's friend, C.R., concerning the contents of the motel manager's letter. See Initial Decision at 2. Petitioner testified that, although she never argued with another resident at the motel, on April 20, 2015, a resident did attempt to spit on her, causing Petitioner to report that incident to the motel manager. Ibid. C.R. testified that she witnessed the resident attempting to spit on Petitioner. Ibid. C.R. also testified that there was an argument between C.R., a friend of C.R.'s, and another resident, in the motel parking lot, during which the other resident was bad-mouthing Petitioner. Ibid. However, Petitioner was not present at the time of the argument. Ibid. According to Petitioner, she emerged from her room after the argument, and the other resident tried to spit on her. See Initial Decision at 3. Petitioner claims that she "did not exchange words" with that resident, but instead went directly to the motel manager's office to "lodge a complaint." Ibid.

Based on the testimony of Petitioner and C.R., the ALJ found that the motel manager's April 20, 2015, letter was "based on hearsay of other staff and [the motel manager] never witnessed any altercation between petitioner and the other resident." See Initial Decision at 2. The ALJ also noted that the motel manager was not present at the hearing to testify. See Initial Decision at 3. Moreover, the ALJ deemed the testimony of Petitioner and C.R. to be credible. See Initial Decision at 3. Therefore, the ALJ found the letter to be hearsay because it was an out-of-court statement offered to prove the truth of the matters asserted. Ibid. Further, the letter did not meet the "residuum rule" because it was not supported by legally competent evidence in the record. See Initial Decision at 4.

Based on the foregoing, the ALJ concluded, and I concur, that the Agency failed to demonstrate that Petitioner violated her service plan by not complying with shelter rules. See Initial Decision at 5. Thus, the ALJ ordered, and I agree, that the Agency's action in terminating Petitioner's EA benefits, and in imposing a six-month period of EA ineligibility upon her, was improper and should be reversed.

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

Signed Copy on File
at DFD, BARA

SEP 25 2015

Natasha Johnson
Director