



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 14902-15 M.H.

AGENCY DKT. NO. S585814 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of her Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA because she failed to comply with her service plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On November 6, 2015, the Honorable Danielle Pasquale, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On November 17, 2015, the ALJ issued her Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on December 1, 2015.

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 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 and sign an EA service plan with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the activities identified in the service plan, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. *Ibid.*

Here, Petitioner's service plan required her to comply with all shelter or motel rules. See Exhibits R-3, R-4, and R-5. While receiving EA from the Agency in the form of shelter placement, Petitioner was terminated from the shelter for violating its rules by staying out overnight with her infant son on three occasions. See Initial Decision at 2; see also Exhibit R-2. As a result, the Agency terminated Petitioner's EA effective August 20, 2015, for non-compliance with her service plan. See Initial Decision at 2; see also Exhibit R-1. At the hearing, Petitioner testified that she left the shelter with her son on those days because the air conditioning was not working, and her son had a very serious medical issue which his doctor had advised required air conditioning and a clean environment. See Initial Decision at 2; see also Exhibit P-1. Petitioner produced four doctors' notes that corroborated her testimony. *Ibid.*

N.J.A.C. 10:90-6.3(e) provides that "[t]he recipient shall be eligible for continued EA for other violations, including but not limited to those identified in (e)(1) below, that result in a termination from a facility. The caseworker shall evaluate the recipient's circumstances and make an appropriate placement.... An adult EA recipient who incurs two or more terminations, for reasons that may include, but are not limited to the following, will result in a loss of EA for a period of six months.... (ii) An absence from the facility without good cause, for 24 hours or more, without prior notification or approval...." See N.J.A.C. 10:90-6.3(e)(1)(ii).

It appears from the record that this was Petitioner's first termination from a shelter due to absences from the shelter for 24 hours or more. Therefore, pursuant to N.J.A.C. 10:90-6.3(e)(ii), Petitioner is eligible for continued EA benefits. In her Initial Decision, the ALJ concluded, and I concur, that the Agency improperly terminated Petitioner's EA, and that Petitioner is eligible for continued EA in a form deemed appropriate by the Agency. See Initial Decision at 5; see also N.J.A.C. 10:90-6.3(a)(1)(stating that the Agency shall determine the most appropriate form of EA required to address the need and costs for adequate emergency shelter in accordance with the particular circumstances).

By way of comment, I have reviewed the Exceptions submitted by the Agency, and I find that the arguments made therein do not alter my decision in this matter.

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

Signed Copy on File
at DFD, BARA

DEC 29 2015

Natasha Johnson
Director