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In the Matter of Rita Nti,  
Department of Human Services,  
Division of Developmental Disabilities

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FINAL AGENCY DECISION  
OAL DKT NO. HDD 07492-12

Initial Decision by Administrative Law Judge Caridad F. Rigo

Rita Nti, petitioner, pro se

Jennifer Bulvanoski, Regional Administrative Practice Officer, for respondent, pursuant to N.J.A.C. 1:1-5.4(a)(3)

I have reviewed the Initial Decision of Administrative Law Judge (ALJ) Caridad F. Rigo decided on November 7, 2014. No exceptions were filed by petitioner or respondent in this matter.

The issues in this matter were: 1) Did petitioner respond in accordance with N.J.S.A. 30:6D-5.1 et. seq., known as "Danielle's Law," N.J.A.C. 30:6D-5.3(a) and N.J.A.C. 10:42A-2.1(a), which requires staff in facilities for individuals with developmental disabilities or traumatic brain injuries to call 911 in the event of a life-threatening emergency; and 2) Were petitioner's actions or non-actions a violation of Danielle's Law and, if so, is a \$5,000 fine warranted?

The ALJ reviewed the documentary evidence presented by the respondent and heard the testimony of five witnesses in this matter. After reviewing the evidence, the ALJ determined that petitioner was not guilty of violating Danielle's Law, finding that petitioner credibly testified that she heard her co-worker on the telephone speaking with a 911 telephone operator. N.J.A.C. 10:42A-2.1(b) provides that a staff member need not call 911 if that staff member is certain that another staff member has already called 911.

As stated by the ALJ, as the fact-finder it is her "obligation and responsibility...to weigh the credibility of the witnesses in this matter in order to make a determination." Initial Decision, page 6. In its de novo review, while the Division has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or is otherwise arbitrary, the Division gives due deference to the ALJ's credibility determinations. See N.J.S.A. 52:14B-10(c); Cavalieri v. Public Employees Retirement System, 368 N.J. Super. 527 (App. Div. 2004). After a thorough review of the record, I find no evidence to support that the ALJ's findings were flawed or were not based on credible evidence. Therefore, I hereby **ADOPT** the Initial Decision as the Final Agency Decision.

December 22, 2014

  
Elizabeth M. Shea  
Assistant Commissioner  
Division of Developmental Disabilities