



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Assistant Commissioner

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

AMENDED DECISION

OAL DKT. NO. HPW **00571-22 S.K.**

AGENCY DKT. NO. **C067808003 (BURLINGTON COUNTY BD. OF SOC. SVCS)**

A Final Agency Decision ("FAD") was issued in this matter on February 8, 2022. This Amended FAD is being issued to recognize receipt of Exceptions filed by the Agency, and received by this office on February 2, 2022, as well as a Reply to Exceptions filed by Petitioner's counsel on February 3, 2022. Both the Exceptions, and the Reply to Exceptions, were inadvertently omitted from reference in the FAD.

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits, termination of placement, and the imposition of a six-month period of ineligibility for EA benefits. The Agency denied Petitioner EA benefits, terminated her motel placement, and imposed a six-month EA ineligibility penalty, contending that she had violated motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 28, 2022, the Honorable Susan L. Olgiati, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. The record was held open until January 31, 2022, to allow Petitioner's counsel the opportunity to review the evidence produced during the hearing.

On February 1, 2022, the ALJ issued an Initial Decision, affirming the Agency's denial of EA benefits to Petitioner and termination of motel placement, and reversing the Agency's imposition of a six-month EA ineligibility penalty. Here, based on the testimony and documentation presented, the ALJ concluded that Petitioner had violated motel rules by engaging in threatening and/or disruptive behavior, resulting in her termination from her motel placement. See Initial Decision at 3, 4, 6, 7; see also Exhibit 3. However, except for the municipal code violation regarding the parking of Petitioner's trailer, the ALJ found that the Agency had failed to address and/or prove the other enumerated motel rule violations set forth in its adverse action notice, and as such, those violations could not form the basis for its denial of EA benefits to Petitioner. See Initial Decision at 3-7; see also Exhibits 2, 4, 5, 6. Further, the ALJ found that, although the invalidated MED-1 form from 2019 did not provide sufficient information to determine that Petitioner's mental health conditions prevented her from refraining from the subject threatening and/or disruptive behavior which she had engaged in, it did put the Agency on notice that such mental health conditions may have impacted her ability to comply with EA requirements, and as such, the ALJ concluded that Petitioner is considered to have had good cause for such violations. See Initial Decision



at 9; see also Exhibit 7, and N.J.A.C. 10:90-6.3(g). Accordingly, the ALJ further concluded that no six-month EA ineligibility penalty should be imposed upon Petitioner. See Initial Decision at 9; see also N.J.A.C. 10:90-6.3(g). Based on the foregoing, the ALJ concluded that the Agency's denial of EA benefits to Petitioner, and termination of placement, was proper and must stand, and that the Agency's imposition of a six-month EA penalty was improper and must be reversed. See Initial Decision at 9-10; see also Exhibit 2, and N.J.A.C. 10:90-6.3(c)(3). I agree. Finally, the ALJ found that the Agency had failed to produce any evidence to advance a denial of an EA benefits to Petitioner on the basis that she had exhausted her lifetime limit of EA benefits, and did not qualify for a hardship extension of said benefits, and as such, concluded that the Agency's determination on that issue should be reversed. See Initial Decision at 9-10; see also N.J.A.C. 10:90-6.4(a),(b). Although this issue was not a transmitted matter, I agree with the ALJ's ultimate conclusion.

Exceptions to the Initial Decision were filed by the Agency on February 2, 2022, and a Reply to Exceptions was submitted by Petitioner's counsel on February 3, 2022.

As Assistant Commissioner, 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, Petitioner is advised that she may reapply for EA benefits. However, Petitioner is also advised that it is the Agency who determines the most appropriate form of housing placement, and if she refuses an appropriate housing placement offered by the Agency she may be denied EA benefits, and a six-month EA ineligibility penalty may be imposed. See N.J.A.C. 10:90-6.1(c)(3).

By way of further comment, should Petitioner reapply for EA benefits, the Agency is directed to schedule Petitioner for a Substance Abuse Initiative/Behavioral Health Initiative ("SAI/BHI") assessment, if it has not done so already. See Exhibit 7; see also N.J.A.C. 10:90-6.1(c)(1)(iii). Should that assessment require Petitioner to engage in treatment, that requirement shall be incorporated into her Individual Responsibility Plan and her EA Service Plan. See N.J.A.C. 10:90-6.1(c)(1)(iii), -6.6(a)(1)(iii). Petitioner is advised that refusal to participate in the SAI/BHI assessment and/or recommended treatment program(s) may result in the denial of EA benefits, and the imposition of a six-month EA ineligibility penalty. See N.J.A.C. 10:90-6.1(c)(3)(vi).

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

Finally, I note for the benefit of Petitioner's counsel that replies to Exceptions are not permitted in Division of Family Development hearings. See N.J.A.C. 1:10-18.2.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is AFFIRMED in part, and REVERSED in part, as outlined above.

Officially approved final version. February 11, 2022

Natasha Johnson
Assistant Commissioner

