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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 17583-18 R.M.

AGENCY DKT. NO. C081400018 (SOMERSET COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's reduction of Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits. The Agency reduced Petitioner's WFNJ/TANF benefits based on the income he received from the Senior Community Service Employment Program ("SCSEP"). Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 15, 2019, the Honorable Sarah G. Crowley, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On February 5, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by Petitioner on February 11, 2019. Also, on February 25, 2019, Petitioner filed a Reply to Agency's Exceptions, although no Agency Exceptions have been received by the Division of Family Development ("DFD").

As the Director of DFD, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, REVERSE the Agency's determination regarding its reduction of WFNJ/TANF benefits due to the inclusion of exempt income, and AFFIRM the Agency's reduction of Petitioner's WFNJ/TANF benefits due to restricted rental payments made directly to Petitioner's landlord, as discussed further below.

Pursuant to N.J.A.C. 10:90-3.19(a)(13)(ix)(9), "[a]llowances and benefits under the National and Community Service Trust Act of 1993 (NCSTA) which established a Corporation for National and Community Service which administers national service programs, including the Americorps programs, the Senior Corps and Youth Corps programs; the Learn and Serve program, and the Volunteers in Service to America (VISTA) program," are exempt income and not to be considered in determining initial or continued eligibility for WFNJ assistance.

In relevant part, pursuant to N.J.A.C. 10:90-3.23(f), at the Agency's discretion, the Agency may deduct from a recipient's monthly WFNJ cash benefit, their portion of the monthly rent, to be paid directly to the landlord. See N.J.A.C. 10:90-3.23(a)(1).



"Recipients of emergency assistance ["EA"], including those receiving [Supplemental Security Income], shall contribute 30 percent of their total household income towards payment of all emergency shelter arrangements, including utilities[.]" See N.J.A.C. 10:90-6.5(a). The Agency may deduct the recipient's 30 percent contribution from the WFNJ cash assistance payment, and the Agency shall be responsible for forwarding the full shelter payment to the vendor/landlord. See N.J.A.C. 10:90-6.5(a)(1).

Here, the record reflects that Petitioner participates in the Senior Community Service Employment Program ("SCSEP, known as PathStone, and receives \$559 per month through this program. See Initial Decision at 2; see also Exhibits P-1, P-5 at 2. PathStone is a United States Department of Labor program targeted to help low-income persons, aged 55 and older, to obtain employment and self-sufficiency. See Exhibit P-1 at 5. Upon Petitioner's receipt of SCSEP income, the Agency reduced his WFNJ/TANF benefits, determining that said income from that program was not exempt, and as such, it had to be included in the calculation of his WFNJ/TANF benefits amount. See Initial Decision at 2. I disagree with the Agency's determination in this regard. Rather, I find that the PathStone program is fundamentally in line with the exemption set forth in N.J.A.C. 10:90-3.19(a)(13)(ix)(9), and as such, Petitioner's earned income stipend should not be considered in determining Petitioner's WFNJ/TANF monthly benefits amount. See N.J.A.C. 10:90-3.4, -3.5. Based on the foregoing, I find that the Agency's reduction of Petitioner's WFNJ/TANF benefits was improper, and that his benefits shall be fully restored, retroactive to the date of the Agency's reduction of said benefits. Although the ALJ arrived at the same conclusion as discussed above, in the Initial Decision the ALJ erroneously concluded that "Petitioner's WFNJ/Temporary Rental Assistance ("TRA") benefits were improperly reduced," rather than his WFNJ/TANF benefits. The Initial Decision is modified to reflect this finding. See Initial Decision at 3.

While not a transmitted issue, it appears from the record that, at the hearing, Petitioner was also contesting the reduction of his monthly WFNJ/TANF benefits from \$537 to \$208, which appears to have occurred due to the Agency's direct payment of Petitioner's mandatory 30 percent contribution toward his monthly rent to his landlord, in accordance with N.J.A.C. 10:90-3.23(a)(1), -3.23(f), -6.5(a). See Initial Decision at 2; see also Exhibit P-5. As referenced above, regulatory authority mandates that recipients of EA benefits must pay 30 percent of their total monthly household income toward their rent, including utilities. See N.J.A.C. 10:90-6.5(a). The record clearly reflects that Petitioner's total monthly household income, from which his SCSEP income is not exempt, totals \$1,096, and that his 30 percent monthly rental contribution of that amount is \$329. See Exhibit P-5; see also N.J.A.C. 10:90-6.5(a). As such, when that monthly contribution is deducted from his monthly WFNJ/TANF benefit, \$537 - \$329, as is the case here, his monthly WFNJ/TANF benefit is reduced to \$208. See Exhibit P-5. Of note, such "restricted" payments are put in place to ensure that WFNJ cash benefits recipients, who are also receiving EA benefits, have their monthly rent paid timely, thereby circumventing any possible eviction for nonpayment of the requisite 30 percent amount. See N.J.A.C. 10:90-3.23(f). Moreover, as Petitioner's mandatory 30 percent rental contribution is directly deducted from his monthly WFNJ/TANF benefits, he will be retaining his full \$559 monthly income from SCSEP. See Exhibit P-5. Based on the foregoing, I find that the Agency's reduction of Petitioner's WFNJ/TANF benefits from \$537 to \$208 per month, effective February 1, 2019, is proper and must stand. *Ibid.*; see also N.J.A.C. 10:90-3.23(a)(1), -3.23(f). The Initial Decision is also modified to reflect this finding.

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

By way of further comment, Petitioner is advised that that replies to Exceptions or Cross-Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2. Moreover, Petitioner is advised that the Agency did not file Exceptions with DFD in this matter.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is REVERSED in part, and AFFIRMED in part, as discussed above.



Officially approved final version.

MAR 13 2019

Natasha Johnson
Director

