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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 18834-17 L.G.

AGENCY DKT. NO. C085530015 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of back rent. The Agency denied Petitioner EA benefits contending that his Work First New Jersey/General Assistance ("WFNJ/GA") assistance unit ("AU") consists of himself and T.K., as a couple, and that T.K. had exhausted her lifetime limit of EA benefits, plus all available extensions. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 2, 2018, the Honorable Kathleen M. Calemme, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 3, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on January 5, 2018.

As the Director of the Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and REVERSE the Agency's determination.

Here, the record reflects that Petitioner's household consists of Petitioner, his ex-partner, T.K., and T.K.'s boyfriend. See Initial Decision at 2-3. Petitioner applied for EA benefits in the form of back rent. *Id.* at 3; see also Exhibit R-2. The Agency determined that because Petitioner and T.K. applied for WFNJ/GA benefits as a couple, that they were considered an AU of two for purposes of EA benefits, and that because T.K. has exhausted her lifetime limit of EA benefits, plus all available extension, that Petitioner has likewise exhausted same, thereby making him ineligible for EA benefits. See Initial Decision at 2; see also Exhibits R-3, R-5, R-13, R-14, and N.J.A.C. 10:90-6.4(a), (b), (c). However, Petitioner testified that he and T.K. are not a couple, that it was the Agency who insisted that both he and T.K. must apply together for WFNJ/GA because they had a child together, and that it was only because he needed said benefits that he did what the Agency instructed him to do. See Initial Decision at 3. Petitioner further testified that he has been residing with T.K. as a roommate, that T.K. and her boyfriend live in separate rooms, that they do not share food or eat together, and that they only share expenses for the apartment. *Ibid.* Also, Petitioner testified that the Agency did not permit him to correct his WFNJ/GA benefits application to reflect his single status. *Ibid.* Based upon the testimonial and documentary evidence, the ALJ found that Petitioner resides with T.K. as a roommate and not as a couple, that Petitioner's WFNJ/GA benefits application is currently in pending status until he completes his WFNJ/GA 28-day work requirement, and that Petitioner is facing eviction. *Id.* at 2-4. Accordingly, the ALJ concluded that the Agency should permit Petitioner to correct his WFNJ/GA application to reflect his single status, and that it is to provide Petitioner with EA benefits on an immediate need basis, in the form of back rent to prevent his imminent homelessness. *Id.* at 4-5; see also N.J.A.C. 10:90-1.3(a).

While I agree with the ALJ's conclusion that Petitioner is a single person for purposes of both WFNJ/GA and EA benefits eligibility, and that Petitioner is eligible for EA benefits, I disagree with the ALJ's conclusion that Petitioner should be



provided with immediate need benefits in the form of back rent. Specifically, I find that Petitioner would only be eligible for EA benefits for the payment of one-third of the back rent, as his two roommates are responsible for their two-thirds portion of the rent. See N.J.A.C. 10:90-6.1(c)(2). As such, since immediate need benefits in the form of one-third of Petitioner's back rent will not prevent actual eviction, I find that Petitioner is not eligible for immediate need benefits in the form of back rent. See N.J.A.C. 10:90-6.3(a)(5). However, I find that Petitioner is eligible for immediate need benefits in a form to be determined by the Agency, which may include shelter/motel placement, and that receipt of prospective EA benefits is contingent upon Petitioner's completion of his WFNJ/GA 28-day work requirement. See N.J.A.C. 10:90-1.2(f)(8), -6.2(a), and -6.3(a)(1). The Initial Decision is modified to reflect this finding.

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

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

Officially approved final version.

JAN 18 2018

Natasha Johnson

Director

