



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

J.F.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
& HEALTH SERVICES &
MIDDLESEX COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
ORDER OF RETURN
OAL DKT. NO. HMA 6228-2016

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. No exceptions were filed in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is November 17, 2016 in accordance with an Order of Extension.

Petitioner was found eligible for Medicaid benefits as of October 1, 2010. R-2. He is seeking an adjustment to his post-eligibility treatment of income in three areas. First, he contends that he is entitled to a deduction for Medicare Part D premiums and unpaid

medical bills. Second, he contends his wife is eligible for compensation for being his guardian. Finally, he argued that the shelter expenses for his wife should be increased to reflect the gross income taxes and not the amount actually paid due to a rebate. For the reasons that follow, I ADOPT in part, REVERSE in part and RETURN the matter to Middlesex County for further action.

The Initial Decision determined that Petitioner's wife was only entitled to the actual amount she paid for property taxes. I concur with that determination. The shelter costs under the Minimum Monthly Maintenance Needs Allowance (MMMNA) are based on actual costs. ID at 6. The Initial Decision went on to find that Petitioner's post-eligibility treatment of income should be modified to include guardianship compensation as well as bills from providers and the Part D premium.

I also concur that the appointment of Petitioner's wife as guardian does permit her to receive a statutory fee based on his income that she actually receives. N.J.S.A. 3B:18-24. However, as Middlesex County correctly pointed out, adding this fee as a deduction will conversely increase her income and, thus, reduce the income she receives from Petitioner to make up the deficit in the MMMNA. Thus, Petitioner shall pay from his available income 6% of his income that is actually is handled by his wife plus substantiated fees up to \$100 a year. That amount shall be added to his wife's available income.

I FIND no basis to include a \$25 bill from JFK Medical Center or the \$10 fee from Petitioner's doctor as a legitimate post-eligibility deduction. Petitioner has been on Medicaid since 2010. The dates for the two charges are April 2015 and June 2016. Pursuant to N.J.S.A. 30:4D-6.c a "provider making a claim for payment pursuant to the act shall certify in writing on the claim submitted that no additional amount will be

charged to the recipient, his family, his representative or others on his behalf for the services, goods and supplies furnished pursuant to this act.” (emphasis added). The payments made by Medicaid “shall constitute payment in full to the provider on behalf of the recipient.” Id. Petitioner is not subject to balance billing for costs exceeding the Medicaid payment. Petitioner’s wife should contact the Medical Assistance Customer Center at (732) 863-4400 and provide information regarding these charges so that the office may investigate and take appropriate action.

I also REVERSE the finding that Petitioner is entitled to a deduction for the monthly premium paid for his Medicare Part D drug benefit. The sole document related to this premium is a portion of a Low Income Subsidy rider. R-7. Normally this premium is set to \$0. Indeed, Petitioner’s wife states the cost was \$0 when he was first found eligible. She contends it went up “because of a government error.” R-3. There is no further explanation of this error. If Petitioner’s premium should be \$0, he is entitled to a refund. Guidance from the Centers for Medicare and Medicaid Services (CMS) states “CMS regulations at 42 CFR [sic] 423.800(c) require the Part D sponsor to reimburse subsidy eligible individuals, and any organizations paying cost sharing on behalf of such individuals (e.g., State Pharmaceutical Assistance Programs (SPAPs)), any excess premium or cost sharing paid by such individual or organization. This includes the refunding of cost sharing amounts that were paid during the period of LIS [Low-Income Subsidy] retroactive coverage.” See <https://www.cms.gov/regulations-and-guidance/guidance/transmittals/downloads/chapter13.pdf>. With the limited information in the record and the allegation that there is an error in the premium, I cannot determine that this is a legitimate expense or if Petitioner is entitled to a refund. As such I am

RETURNING the matter to Middlesex County so that Petitioner's wife can provide further information regarding the premium "error."

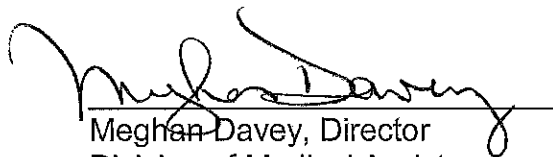
THEREFORE, it is on this 16th day of NOVEMBER 2016

ORDERED:

That the Initial Decision is hereby ADOPTED with regard the MMMNA as calculated by Middlesex County;

That the Initial Decision is hereby REVERSED as to the finding that Petitioner's is entitled to have his income reduced for balanced billing by providers and the Medicare Part D premium; and

That the matter is RETURNED to Middlesex County so that Petitioner may provide additional information regarding the balance billing and the alleged error in the Medicare Part D premium and Middlesex County, in conjunction with the MACC, is instructed to assist Petitioner's wife with these charges.


Meghan Davey, Director
Division of Medical Assistance
and Health Services