



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Lt. Governor

MEGHAN DAVEY  
Director

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

L.F.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

BERGEN COUNTY BOARD OF

SOCIAL SERVICES,

RESPONDENTS.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 16900-2015

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. Bergen County Board of Social Services filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision in this matter is May 12, 2016 in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of receipt. The Initial Decision in this matter was received on March 28, 2016.

The matter arises regarding the termination of Petitioner's Medicaid benefits. Petitioner had been receiving Medicaid benefits. However, her benefits was increased in 2014 to \$1,089 as she was now receiving a Widow's Benefit in addition to her own retirement benefit. Bergen County determined that Petitioner was ineligible for benefits and terminated her as of September 30, 2015.

The Initial Decision determined that a December 2, 2015 letter from the Social Security Administration (SSA) indicated that \$209.80 of Petitioner's SSA check represented a refund for "Medicare Part B (medical insurance) premiums [Petitioner] paid since July 1993." P-1. As such it was extrapolated that \$209.80 in each check had to be excluded from countable income pursuant to POMS SI 00830.210 which reduce Petitioner's income to \$880. This is incorrect based on a misreading of the December 2, 2015 letter as well as the POMS, which does not apply to this case.

The plain language of the letter shows that the refund of \$209.80 was received around December 10, 2015 as a refund of prior payments Petitioner made for the Medicare Part B. Petitioner then received "\$1,089.00 for December 2015 around December 31, 2015 . . . [and] . . . [a]fter that . . . will receive \$1,089.00 on or about the third of each month." P-1. The payment of \$209.80 is a one-time refund of prior premium payment. Petitioner received two checks in December 2015 - one for \$1,089.00 and one for \$209.80. After that Petitioner is only entitled to \$1,089.00 a month and it is that amount that renders her ineligible for benefits.

In the example for SI 00830.210, the excluded refund payment is for a payment the individual made when the Title II benefits were withheld due to expected work and earnings. The example shows the Title II benefits being reinstated as of July 2001 and the refund for the August and September premiums he already paid being included in

the July 2001 check. While that portion of the July 2001 check is not income, the August and September premiums "will be withheld from future checks." ID at 4. However, the amount withheld from the August and September check for premiums is included in countable income. See POMS SI 00830.210.7 "If a monthly Title II benefit payment has been reduced because of a garnishment, the gross amount of the benefit received (plus any SMI premium withheld) is unearned income."

Petitioner's refund of previously paid premiums does not extend beyond the December 10, 2015 check. As indicated in the exceptions filed by Bergen County, her gross monthly benefit is \$1,089 which exceeds the income limit of \$981 and makes her ineligible for Medicaid benefits.


If Petitioner needs assistance with her prescription costs, I suggest she apply for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program. I request that the County assist Petitioner with the application. Petitioner may also be eligible for assistance with prescription costs through the Rx4NJ program. For more information about this program, I suggest she call 1-888-793-6765 or access their website at [www.Rx4NJ.org](http://www.Rx4NJ.org).

THEREFORE, it is on this 11<sup>th</sup> day of MAY 2016,

ORDERED:

That the Initial Decision is hereby REVERSED; and

That Petitioner's benefits are terminated due to excess income.

  
Meghan Davey, Director  
Division of Medical Assistance  
and Health Services