



State of New Jersey

DEPARTMENT OF HUMAN SERVICES  
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES  
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Acting Commissioner

KIM GUADAGNO  
Lt. Governor

MEGHAN DAVEY  
Director

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

S.T.,

PETITIONERS,

ADMINISTRATIVE ACTION

v.

FINAL AGENCY DECISION

DIVISION OF MEDICAL ASSISTANCE  
AND HEALTH SERVICES AND  
UNION COUNTY BOARD OF  
SOCIAL SERVICES,

OAL DKT. NO. HMA 12451-16

RESPONDENTS.

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, the contents of the OAL case file and Respondent's exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision is December 1, 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 the agency's receipt. The Initial Decision was received on October 17, 2016.

Based upon my review of the record, I hereby REVERSE the Initial Decision ordering the waiver and reimbursement of monthly premiums for the NJ FamilyCare Coverage provided to Petitioner's daughter. For the reasons which follow, I find that the case should be returned to the State Vendor to re-determine eligibility.

In this case, the undisputed evidence in the record indicates that the household's monthly income exceeded the limit for Petitioner and her children to qualify for benefits through the County Board of Social Services. In its March 21, 2016 termination letter, the Union County Board of Social Services advised Petitioner to apply for benefits for herself through the Health Insurance Marketplace. The County also indicated that Petitioner's application had been forwarded to the State's Vendor (Xerox) to determine if her children were eligible for another segment of NJ FamilyCare with a higher income level.

The only issue to be addressed at the October 13, 2016 hearing was the accuracy of the Union County Board of Social Services' termination of benefits. Nevertheless, and despite the fact that Petitioner's appeal from Xerox's determination is subject to a Grievance review rather than an OAL hearing, the ALJ permitted Petitioner to challenge Xerox's determination regarding the monthly premium for benefits provided to her daughter. Moreover, although a representative from Xerox was not present at the hearing, the ALJ nevertheless determined that the "agency" reconsidered its termination and reinstated

Petitioner's daughter's eligibility for Plan C, a plan that is not subject to monthly premiums or co-pays. As a result, the ALJ concluded that Petitioner had been incorrectly charged for Plan C premiums and ordered the waiver and reimbursement of those premiums. I disagree.

First, it is unclear from this record that Xerox in fact found Petitioner's daughter eligible for Plan C. Rather, based upon Petitioner's paystubs, it appears more likely that she was determined eligible for Plan D, a plan that does impose monthly premiums. Moreover, the ALJ's decision ignores the fact that there are two distinct titles of the Social Security Act that address eligibility for the NJ FamilyCare program. Specifically, medical assistance benefits for NJ FamilyCare are provided through the Medicaid program under Title 19 of the Social Security Act as well as the Children's Health Insurance Program (CHIP) under Title 21 of the Social Security Act. Eligibility determinations for the CHIP portion of NJ FamilyCare under Title 21 (income levels above 200% and up to 350% of the FPL) are only made by the State Vendor, Xerox. Since Union County did not make the eligibility determination regarding coverage for Petitioner's daughter, I find that the ALJ improperly addressed eligibility under Title 21 at the fair hearing and inappropriately designated the County representative as the Respondent with respect to an eligibility determination made under Title 21. As a result, I FIND that this matter should be returned to Xerox to re-evaluate Petitioner's daughter's eligibility for NJ FamilyCare benefits. If Petitioner disagrees with this determination, she may pursue an appeal through Xerox at that point.

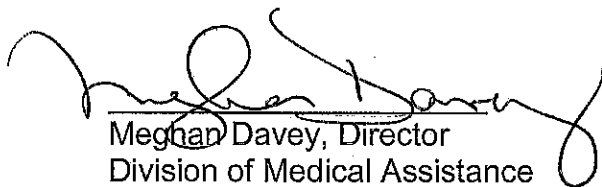
THEREFORE, it is on this 30<sup>th</sup> day of November 2016,

ORDERED:

That the Initial Decision ordering the waiver and reimbursement of monthly premiums is hereby REVERSED, and

IT IS FURTHER ORDERED:

That Xerox re-evaluate NJ FamilyCare eligibility for Petitioner's daughter.

A handwritten signature in black ink, appearing to read "Meghan Davey", is written over a horizontal line.

Meghan Davey, Director  
Division of Medical Assistance  
and Health Services